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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 923/2020**

AMIT MATHUR & ANR.

..... Petitioners

Through: Petitioners in person with Ms.
Shreshtha Kumar, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Mr. Ashok Kumar Garg, APP for
State with W/ASI Usha, PS M.S.
Park.

R-2 in person with Mr. Virendra
Vikram Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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19.02.2020

Vide the present petition, the petitioners seek the quashing of the FIR No.349/2018, PS Mansarovar Park registered under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the petitioners and the respondent no.2 and that no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The Investigating Officer of the case is present and has identified the petitioner no.1 Amit Mathur and petitioner no.2 Sumit Mathur present today in Court as being the two accused arrayed in the FIR No.349/2018, PS Mansarovar Park registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms. Shikha as being the complainant of the said FIR.

The respondent no.2 has produced her original proof of identity, photocopy of which is on the record as Ex.CW2/A. The respondent no.2 in her deposition on oath has affirmed having signed her affidavit in support of the averments made in the petition at points A & B on Ex.CW2/B as well as on the memorandum of understanding/ settlement deed dated 05.11.2019 arrived at between her and the petitioner no.1 as visible at point A on Ex.CW2/C, qua which she states that she has signed these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further testified to the effect that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13 B(2) of the HMA, 1955 in HMA Petition No.1151/2019 vide a decree dated 09.01.2020 of the Court of the learned Principal Judge, Family Court, Shahdara, KKD Courts, Delhi, certified copy of which is on the record as Ex.CW2/D and has further testified that in terms of the settlement arrived at between her and the petitioner no.1, a total sum of Rs.2,50,000/- was agreed to be paid to her by the petitioner no.1, out of which a sum of Rs.2,00,000/- has been received by her previously and the balance sum of Rs.50,000/- has now been handed over to her vide a Manager's Cheque bearing No.005493 dated 23.01.2020 drawn on the HDFC Bank in her favour, photocopy of which has been submitted on record and further states that there are now no claims of hers left against the petitioners. The respondent no.2 has further testified to the effect that the minor child namely Master Shaurya born of the wedlock between her and the petitioner no.1 is in her custody.

In reply to a specific Court query, the respondent no.2 has further

stated that she has studied upto Standard XII and that she is pursuing a Yoga Teacher's Course and has understood the implications of the statement made by her and that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioners seeking the quashing of the FIR No.349/2018, PS Mansarovar Park registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking the quashing of the FIR in question in view of the settlement arrived at between the parties.

In as much as, the FIR has apparently emanated from a matrimonial discord between the petitioner no.1 and the respondent no.2, which has since been resolved as brought forth through the deposition of the respondent no.2, in as much as, all claims of the respondent no.2 have been settled as testified by her, it is considered appropriate to put a quietus to the litigation between the parties in relation to the FIR in question.

In view thereof, the FIR No.349/2018, PS Mansarovar Park registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no.1 Amit Mathur and petitioner no.2 Sumit Mathur are thus quashed.

It is essential to observe however, that vide the settlement deed 05.11.2019 vide Clause 4 & 12 thereof, which read to the effect:-

“4. It is agreed between the parties that, wife/ first party will have no objection and will not raise further claim against husband/party no,2 in future towards maintenance or

anything else on her behalf or on behalf of her son. She will not file any other execution application in this regard.

12. That above settlement is with respect to all claims of wife past, present and future alimony, stridhan, maintenance, pending amount of maintenance, articles, property etc, and neither she nor her relatives shall claim anything from husband or his family members in future for herself or on behalf of child Master Shaurya.”,

it has been agreed between the petitioner no.1 and the respondent no.2 that there were no claims of the minor child left against the petitioners.

The said term is not in consonance with law as laid down by the Hon'ble Supreme Court in ***Ganesh V. Sudhir Kumar Shrivastava & Ors.***; Civil Appeal Nos. 4031-4032/2019 arising out of SLP(C) Nos. 32868-32869/2018, a verdict dated 22.4.2019 as adhered to and followed by this Court in ***Rakesh Jain & Ors. v. Sate and Anr.*** in Crl.M.C. No. 2935/2019.

In the circumstances, it is made expressly clear that the quashing of the present FIR in term of the settlement agreement dated 05.11.2019 between the petitioner no.1 and the respondent no.2 shall not amount to any embargo on the minor child namely Master Shaurya seeking his claims against the petitioners qua maintenance or otherwise, in accordance with law.

The petition is disposed of accordingly.

ANU MALHOTRA, J

FEBRUARY 19, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 923/2020

AMIT MATHUR & ANR. VS. STATE & ANR.

19.02.2020

CW-1 W/ASI Usha, PS M.S.Park.

ON S.A.

I identify the petitioner no.1 Amit Mathur and petitioner no.2 Sumit Mathur present today in Court as being the two accused arrayed in the FIR No.349/2018, PS Mansarovar Park registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Shikha as being the complainant of the said FIR.

RO & AC
19.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 923/2020

AMIT MATHUR & ANR. VS. STATE & ANR.

19.02.2020

CW-2 Ms. Shikha, w/o Sh. Amit Mathur, d/o Sh. Satish Bhatnagar, age 32 years, r/o 1/4302, Ram Nagar, Shahadra, Delhi.

ON S.A.

I have brought my original proof of identity, photocopy of which is on the record as Ex.CW2/A.

My affidavit in support of the averments made in the petition bears my signatures at points A & B on Ex.CW2/B. The memorandum of understanding/ settlement deed dated 05.11.2019 arrived at between me and the petitioner no.1 also bears my signatures as visible at point A on Ex.CW2/C, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13 B(2) of the HMA, 1955 in HMA Petition No.1151/2019 vide a decree dated 09.01.2020 of the Court of the learned Principal Judge, Family Court, Shahdara, KKD Courts, Delhi, certified copy of which is on the record as Ex.CW2/D. In terms of the settlement arrived at between me and the petitioner no.1, a total sum of Rs.2,50,000/- was agreed to be paid to me by the petitioner no.1, out of which a sum of Rs.2,00,000/- has been received by me previously and the balance sum of Rs.50,000/- has now been handed over to me vide a Manager's Cheque bearing No.005493 dated 23.01.2020

drawn on the HDFC Bank in my favour, photocopy of which has been submitted on record. There are now no claims of mine left against the petitioners.

The minor child namely Master Shaurya born of the wedlock between me and the petitioner no.1 is in my custody.

In view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.349/2018, PS Mansarovar Park registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

I have studied upto Standard XII and I am pursuing Yoga Teacher Course.

I have made my statement after understanding the implications thereof, voluntarily of my own accord without any duress, coercion or pressure from any quarter.

RO & AC
19.02.2020

ANU MALHOTRA, J