

\$~13

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

+ CRL.M.C. 1501/2020 & CRL.M.A. 7399/2020

ANJU

..... Applicant

Through: Petitioner in person with Mr.V.K.Malik
& Mr.Rahul Raj Malik, Advocates.

Versus

THE STATE & ORS

.....Respondent

Through: Mr. Kamal Kumar Ghei, APP for State
with ASI Ajeet Singh.
R-2 to 7 in person.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

27.08.2020

(hearing through Video Conferencing)

Vide the present petition, the petitioner seeks the quashing of the FIR No.365/2018, PS Farsh Bazar under Sections 323/324/506 of the Indian Penal Code, 1860 which is indicated to have been registered on the complaint made by Ms.Aruna arrayed as the respondent no.3 to the present petition and the petitioner also seeks the quashing of the FIR No.367/2018, PS Farsh Bazar under Sections 323/354/34 of the Indian Penal Code, 1860 and FIR No.176/2016, PS Mansarovar Park under Sections 498A/406/34 of the Indian Penal Code, 1860 which were lodged on her complaints.

The petition is apparently being premised on a settlement, in as much as, the petitioner had submitted that despite her attempts that the balance sum in terms of the settlement arrived at between the parties at the Delhi Mediation Centre, KKD Courts, New Delhi had not been paid.

Signature
Not Verified

Digitally Signed
By: SUMIT GHAI
Signing
Date: 28.08.2020
14:11:01
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.

Notice of the petition was issued to the respondents and pursuant thereto, the respondents have put in appearance.

The Investigating Officer is also present and has identified the petitioner and the respondent nos. 2 to 7 arrayed to the present petition through Video Conferencing.

The respondent no.3 Ms. Aruna in her statement on oath in replies to specific Court queries submits that she does not oppose the prayer made by the petitioner seeking the quashing of the FIR No.365/2018, PS Farsh Bazar under Sections 323/324/506 of the Indian Penal Code, 1860 and states that she has so stated voluntarily of her own accord without any duress, coercion or pressure from any quarter. Ms.Aruna has further submitted that she done her BA., LLB and that she is a practicing advocate, there appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioner voluntarily of her own accord.

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

As regards the FIR No.367/2018, PS Farsh Bazar under Sections 323/354/34 of the Indian Penal Code, 1860 and FIR No.176/2016, PS Mansarovar Park under Sections 498A/406/34 of the Indian Penal Code, 1860, it has been stated by the petitioner that in terms of the settlement arrived at the Delhi Mediation Centre, KKD Courts, New Delhi on 16.03.2019, she has received a total settled sum of Rs.9,25,000/- and that the minor child namely Saksham born of the wedlock between her and the respondent no.2 is in her custody and that she does not seek any further continuation of the proceedings in relation to FIR No.367/2018, PS Farash Bazar under Sections 323/354/34 of the Indian Penal Code, 1860 and FIR No.176/2016, PS Mansarovar Park under Sections

Signature
Not Verified

Digitally Signed
By: SUMIT CHAI
Signing
Date: 28.06.2020
14:11:01
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.

498A/406/34 of the Indian Penal Code, 1860 qua which she has already made the prayer through the present petition itself.

In as much as, the mediation settlement dated 16.03.2019 indicates vide Clause 6 that there is a complaint under Section 156(3) r/w Section 200 of the Cr.P.C., 1973 initiated by Ms.Anju pending in the Court of the learned MM, Mahila Court, Shahdara, KKD Courts, New Delhi qua which it is stated on behalf of the petitioner by the learned counsel that there is no complaint now pending. The complaint mentioned at serial no.5 of the said mediation settlement i.e. Complaint Case no.5744/2018 filed by Ms.Aruna, sister of the respondent no.2 pending in the Court of the learned MM, Shahdara, KKD Courts, Delhi qua which Ms.Aruna states that she has no objection to the said case being quashed.

In view of the submissions that have been made on behalf of Ms.Aruna and Ms.Anju, and taking into account the factum that there is no opposition on behalf of the State to the prayer made by the petitioner through the present petition as well as taking into account the statement of Ms.Anju that she has received the settled sum in term of the settlement agreement dated 16.03.2019, FIR No.365/2018, PS Farsh Bazar under Sections 323/324/506 of the Indian Penal Code, 1860 against the petitioner, FIR No.367/2018, PS Farsh Bazar under Sections 323/354/34 of the Indian Penal Code, 1860 and FIR No.176/2016, PS Mansarovar Park under Sections 498A/406/34 of the Indian Penal Code, 1860 against the respondent nos. 2 to 7 and the complaint case filed by Ms.Aruna bearing no.5744/2018 in the Court of the MM, Shahdara, KKD Courts, New Delhi, which all have apparently arisen out of matrimonial discord between the petitioner and the respondent no. 2 which has since been resolved, are all quashed.

It is essential to observe that as per the settlement dated 16.03.2019, it had been observed vide Clause 2 thereof to the effect:-

Signature
Not Verified

Digitally Signed
By: SUMIT CHAI
Signing
Date: 28.06.2020
14:11:01
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.

"2. It is agreed between the parties that husband shall pay a total amount of Rs.9,25,000/- (Rupees Nine Lakh Twenty Five Thousand only) to the wife towards full and final settlement of all her claims including stridhan, permanent alimony & maintenance (present, past and future) etc. as well as for maintenance of the son Saksham;

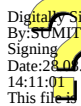
thus, vide order dated 23.07.2020, it was specifically observed to the effect:-

"The respondents No.2,3 and 4 are represented by Mr.Navdeep Kumar, Advocate, who is also arrayed as respondent No.5. In as much as the petition is premised on the mediation settlement dated 16.3.2019 arrived at between the parties, at the Delhi Mediation Centre, Karkardooma Courts, Delhi and vide clause 2 thereof which reads to the effect:-

"2. It is agreed between the parties that husband shall pay a total amount of Rs.9,25,000/- (Rupees Nine Lakh Twenty Five Thousand only) to the wife towards full and final settlement of all her claims including stridhan, permanent alimony & maintenance (present, past and future) etc. as well as for maintenance of the son Saksham;

as per which it is thus indicated that the all the claims of the maintenance of the minor son Saksham born of the wedlock between the petitioner Anju and the respondent No.2 Surender Kumar have been settled once and for all. 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. State and Anr. in Crl.M.C. No. 2935/2019. In view thereof, the petitioner No.2 shall thus place an affidavit on the record specifying to the effect that the child Saksham born of the wedlock between the petitioner and the respondent No.2 is entitled to seek his claims qua maintenance or otherwise in accordance with law against the petitioners. The said affidavit be filed before the next date of hearing."

Signature
Not Verified


Digitally Signed
By: SUMIT CHAI
Signing
Date: 28.07.2020
14:11:01
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.

and pursuant to the order dated 23.07.2020, the said affidavit was not filed by the respondent no.2 and it is so indicated also vide proceedings dated 31.07.2020 to that effect. Despite the matter having been taken up for consideration today, the said affidavit of the respondent no.2 has not been filed, in as much as, the settlement has been arrived at between the parties, as directed hereinabove the consequential complaint cases and consequential proceedings in relation to the said FIRs stand quashed, however, in terms of the verdict of the by the Hon'ble Supreme Court in Civil Appeal 4031-4032/2019 arising out of SLP (C) Nos.32868-32869/2018 titled as ***Ganesh Vs. Sudhirkumar Shrivastava & Ors.*** vide the verdict dated 22.04.2019 as adhered to and followed by this Court in ***Rakesh Jain & Ors. vs. State & Anr.*** in CRL.M.C. 2935/2019 dated 06.09.2019, despite the settlement agreement dated 16.03.2019 arrived at between the parties at the Delhi Mediation Centre, KKD Courts, New Delhi, it is made expressly clear that the minor child namely Saksham born of the wedlock between the petitioner and the respondent no.2 would be entitled to seek his claims/rights against the respondents nos. 2 to 7 qua maintenance or otherwise in accordance with law.

The petition is disposed of accordingly.

ANU MALHOTRA, J

AUGUST 27, 2020

'neha chopra'

Signature
Not Verified

Digitally Signed
By: SUMIT CHAI
Signing
Date: 28.08.2020
14:11:01
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.