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

+ CRL.M.C. 2592/2018 & CRL.M.A. 9206/2018

SANDHYA PRABHAKAR

.....Petitioner

Through: Mr. Rajkamal, Mr. Aseem Atwal, Ms.
Aparjita Tyagi and Mr. Ishaan Ojha,
Advocates.

versus

STATE OF NCT OF DELHI & ANR

.....Respondents

Through: Mr. Utkarsh, APP for the State.
Mr. Deepak Tyagi, Adv. for R-2 & 3
(VC).

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

27.03.2025

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1. Petition under Section 482 Cr.P.C has been filed for quashing of FIR No.528/2007, under Section 323/341/506 IPC, P.S. Kalkaji in which Chargesheet has been filed under Section 324/323/341/506 IPC.
2. It is submitted that the parties were neighbours against whom a scuffle took place resulting in registration of the present FIR. The parties eventually arrived at a settlement which was recorded *vide* MOU dated 23.09.2015. The Complainant and the Petitioner had appeared before the learned M.M who recorded the Statement of Mr. S.S.Chhibber and quashed the charges under Section 341/34 IPC, however, it was observed that the offence under Section 324 IPC is not compoundable and the matter was listed for further proceedings.
3. Thereafter, the matter proceeded as the statement of the injured Ms. Manju Chhibber as PW.1 was recorded on 07.03.2018. Her part cross examination was also conducted after which on 07.03.2018 learned counsel for the Petitioner/accused took an adjournment on the basis of the Settlement which was arrived at between the parties on 23.09.2015. Even though Col. Chhibber had compounded and made a statement before the Court but



subsequently he also appeared as PW.2 and has deposed about the incident though his cross examination was sought to be differed in view of the Settlement between the parties dated 23.09.2015.

4. Learned counsel for the Petitioner submits that it was a scuffle between the neighbours and the matter got amicably settled and even the offence under Section 341 has been permitted to be compounded and the Petitioner acquitted against which no Revision or challenge has been made by the Complainant or her husband. It is submitted that in terms of the MOU dated 23.09.2015 the matter stands compounded and, therefore, the FIR be quashed.

5. Learned counsel for the Petitioner has placed reliance on Anshu Soni & Ors vs. State & Anr, 2012 SCC Online Del.5967 and Jaibir & Ors vs. State & Anr, 2007 SCC Online Del. 518 wherein it has been observed that mediated settlement which have been partly acted upon must be given their due significance and once the parties have endorsed the settlement the same should be taken to its logical end.

6. **Learned APP submits that the MOU** was not signed by injured Ms. Manju Chhibber and she also did not appear in the Court to make any statement endorsing the MOU and therefore, there cannot be quashing of the FIR.

7. **Learned counsel on behalf of the Complainant/injured** submits that Ms. Manju Chhibber was the Complainant and she has not compounded the offence and is not inclined to settle the matter. Col. S.S.Chhibber, her husband may have agreed for a Settlement, but that cannot be held to be binding on the Complainant.

8. **Submissions heard and record perused.**

9. Pertinently, on the complaint of Ms. Manju Chhibber about an incident of fighting, which took place on 01.06.2007, FIR under Section 323/341/506/34 IPC was registered. After investigations, the Chargesheet was filed under Section 324/323/341/506/34 IPC. As the case was pending the parties were referred to Mediation Centre for settlement but did not succeed.



Thereafter, as recorded in the Order dated 23.09.2015, with the intervention of the Court the parties agreed for a Settlement and MOU dated 23.09.2015 was entered whereby the parties agreed for quashing/withdrawal of the 4 pending cases out of which 2 were filed by the Petitioner, while the other two were filed by the Respondents.

10. It was observed in the case of Jaibir & Ors (Supra) in the context of Section 498A/406/34 IPC that Settlement is a complete package and the complainant cannot be allowed to turn around and oppose the Petition after he has agreed for quashing of the proceedings. The Legislature has amended Section 89 of the CPC in the year 2002. There has been an all round attempt by the Legislature and Judiciary as well as the Executive to promote the settlement of disputes through the process of mediation. Therefore, once the disputes between the parties have been settled by the process of mediation, it would be in public interest as well as to attach importance to such a process and treat the settlement as a solemn settlement. Otherwise the movement of mediation may itself suffer if the parties are given to understand that even after they agree for settlement one of the parties can still back out.

11. The proposition of law is well established that once the parties have arrived at a settlement, endorsed by the parties before the Court and it has been partly acted upon, either party should not be allowed to resile from the same.

12. In the present case, however, unfortunately as is evident from the Order dated 23.09.2015 as well as the Memorandum of Settlement dated 23.09.2015 that the Settlement was between the accused and Col. S.S. Chhibber, who was the injured. However, the Complainant, Ms. Manju Chhibber was neither present in the Court nor was a party to the Settlement. Therefore, even if Col. Chhibber had agreed for a settlement, that cannot be held binding on Ms. Manju Chhibber as she was never a party to the entire settlement and cannot be held bound by the terms of settlement.

13. It is also pertinent to observe that the Chargesheet and the charges have



been framed under Section 324/34 IPC and they cannot be bifurcated vis-a-vis the Complainant and Col. S.S. Chhibber.

14. In the recent judgment of Rakesh Das vs. State of Haryana & Anr., 2024 PHHC:147654-DB it has been held by this court that such partial compounding with one accused should not be permitted.

15. In view of the circumstances wherein one of the injured was not a signatory to a Settlement, she cannot be compelled to agree to the terms of the Settlement. The husband, Col. S.S.Chhibber, who also got injured in the incident may have agreed to quashing, there is no merit in the present Petition for quashing of FIR and the Chargesheet and the proceedings emanating therefrom. Needless to say that the settlement may be a relevant factor at the relevant stage, which may be agitated by the Petitioner in accordance with law.

16. The observations made herein are in the context of the present Petition and is not a finding on the merits of the case.

NEENA BANSAL KRISHNA, J

MARCH 27, 2025

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