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

Date of Decision: February 11, 2015

+ **CRL.M.C. 1665/2008**

RAJIV MALHOTRA Petitioner

Through: Mr. Ashwin Vaish, Mr. Sanjeev
Manchanda and Mr. Vinod
Pandey, Advocates

versus

STATE & ANR.Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State
Mr. Suman Chauhan, Advocate for
respondent No.2

+ **CRL.M.C. 1450/2013 & CrI.M.A.4546/2013**

ANITA MALHOTRA & ORS. Petitioners

Through: Mr. Ashwin Vaish, Mr. Sanjeev
Manchanda and Mr. Vinod
Pandey, Advocates

versus

STATE & ANR.Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State
Mr. Suman Chauhan, Advocate for
respondent No.2

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT
(ORAL)**

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In the above captioned two petitions, quashing of FIR No.37/2008 under Sections 498-A/406/323/341/34 of IPC registered at P. S. Hari Nagar, Delhi is sought on the basis of *Mediated Settlement Agreement* of 18th January, 2010 (*Annexure-C*).

With the consent of learned counsel for the parties, both these petitions were heard together and by this common judgment, they are being disposed of as the dispute in these two petitions arises out of one FIR.

Upon notice, respondent No.2, who is the complainant/first-informant of the FIR in question, has appeared and on her behalf, it was submitted that the aforesaid Mediated Settlement Agreement has been violated by petitioner as she was not permitted to remain on the first floor of the matrimonial house and so, the pending cases have not been withdrawn. This is disputed by learned counsel for petitioners, who submits that respondent No.2 has received the settled amount, but now she is not coming forward to get the FIR in question quashed.

During the pendency of this petition, both the sides had submitted that they again want to explore a possibility of a fresh mediated settlement through *Delhi High Court Mediation and Conciliation Centre* and for that purpose, they had appeared before the aforesaid Forum. Unfortunately, the mediation effort has not proved fruitful.

Mr. Vinod Diwakar, learned Additional Public Prosecutor for respondent-State, has brought to the notice of this Court that the charge-sheet in this FIR case has been already filed.

Upon hearing and on perusal of the FIR of this case, earlier Settlement Agreement and the material on record, I find that the earlier Settlement Agreement of 18th January, 2010 has not been acted upon as respondent-wife claims that she was thrown out of the matrimonial home. This is an aspect which cannot be gone into under proceedings under Sections 482 of Cr.P.C. as it would be a matter of evidence as to who had defaulted in performance of the Settlement Agreement of 18th January, 2010. Since the subsequent effort for mediated settlement has failed, therefore, quashing of FIR in question on the basis of settlement as sought in these two petitions cannot be acceded to.

Accordingly, both these petitions and the application are disposed of with liberty to the parties to avail of the remedies as available in law to them as the charge-sheet in this FIR case has been already filed.

(SUNIL GAUR)
JUDGE

FEBRUARY 11, 2015

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