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

+ **CRL.M.C.3521/2011**

% *Judgment delivered on: 21st October, 2011*

SK SAHANI

..... Petitioner

Through: Mr. Vikram Singh, Adv.

versus

STATE & ANR

..... Respondent

Through: Ms. Ritu Gauba, APP for State.
Mr. Sanjay Chauhan, Advocate for
respondent no.2

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

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| 1. Whether the Reporters of local papers
may be allowed to see the judgment? | NO |
| 2. To be referred to Reporter or not? | NO |
| 3. Whether the judgment should be reported
in the Digest? | NO |

SURESH KAIT, J. (Oral)

Crl.MA 12504/2011 (exemption)

Exemption allowed subject to all just exceptions.

CRL.M.C. 3521/2011

1. Notice. Notice of the petition is accepted by learned APP for the State as well as by Mr. Sanjay Chauhan, Advocate for respondent no.2.
2. It is submitted by learned counsel for the petitioner that an FIR No.720 dated 28.06.2006 under Section 52A/63/68A of the Copyright Act

and under 292 IPC, was registered against the petitioner on the complainant of respondent no.2 on the information received by the police.

3. The respondent no.2 is an aggrieved party in the present case having settled all their disputes with the petitioner, qua present FIR vide Compromise Deed dated 1.10.2011 and submits that due to settlement arrived at between the parties, the present FIR be quashed.

4. On the other hand, learned APP submits that the owner of the copyright material has to be treated as a defendant in civil as well as in criminal prosecution under Section 68A of the Copyright Act. The punishment for contravention of Section 52A of the Copyright Act is punishable to the extent of 03 years and fine and under Section 62A of the said Act.

5. Learned APP for State has referred the case of Hon'ble Supreme Court in *Gian Singh Vs. State of Punjab & Anr.* in *SLP (Crl.) No.8989/2010* wherein the Division Bench of the Supreme Court has referred three earlier decisions viz, *B.S. Joshi V. State of Haryana (2003) 4 SCC 675*, *Nikhil Merchant v. Central Bureau of Investigation and Anr. (2008) 9 SCC 677* and *Manoj Sharma Vs, State & Ors. (2008) 16 SCC 1* to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not.

6. Previously, I have taken the view on the basis of the judgment of the *Crl.M.C. 3521/2011*

Division Bench of Mumbai High Court in *Nari Motiram Hira Vs. Avinash Balkrishnan & Anr.* in *Crl.W.P.No.995/2010 decided on 03.02.2011* whereby the Division Bench of Mumbai High Court has permitted for compounding of the offences under Section 452/324 of Indian Penal Code which were of ‘non-compoundable’ category as per Section 320 Cr. P.C. and the FIR No.50/2010 registered at Amboli Police Station, Andheri dated 06.02.2010, was quashed. Therefore, I am of the opinion that unless and until, the decisions in cases which have been referred above, are set aside or altered, the same decisions are the precedent and binding effect.

7. Respondent no.2 who is the aggrieved person is present in person with his counsel who has duly identified him. On instructions, learned counsel for the respondent no.2 submits that, he has compromised all issues with the petitioner and he does not want to pursue the present case further and has no objection if the present FIR and the proceedings emanating therefrom are quashed.

8. Though, I find force in the submissions of learned APP for the State, however, keeping in view the number of judgments of the Apex Court and various High Courts whereby offence under Section 320(C) IPC has been compounded.

9. Since the matter has been compromised inter se parties and

respondent no.2 is no more interested in pursuing the present FIR, therefore, in the interest of justice, I quash the FIR No.720/2006 under Section 52A/63/68A of the Copyright Act and Section 292 of IPC registered at PS Lajpat Nagar and the proceedings emanating therefrom.

10. However, in view of the submissions made by learned APP and the fact that police machinery has been used and precious time of the Court has been consumed, therefore, while quashing the abovementioned FIR, the petitioner is directed to pay Rs.50,000/- with “Beggars Home, Lampur Border near Narela, Alipur, New Delhi” within two weeks from today and the receipt of the same be placed on record.

11. Accordingly, Crl.M.C.3521/2011 is allowed on the above said terms.

12. *Dasti.*

SURESH KAIT, J

OCTOBER 21, 2011
Rd/RS