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

+ **CRL.M.C.3566/2011**

% Judgment delivered on:24th October, 2011

SULTANA JAVIDA & ORS Petitioner
Through : Mr. Vikas Sharma, Adv.

versus

STATE & ORS Respondent
Through: Ms.Rajdipa Behura, APP for
State.

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. M.A. 12679/2011**

Exemption is allowed subject to just exceptions.
Criminal M.A. stands disposed of.

Crl. M.C. 3566/2011

1. Ld. Counsel for the Petitioner submits that vide FIR no.
70 dated 11.03.2011 case under Section

452/323/452/323/34 Indian Penal Code, 1860 has been registered at PS-Sangam Vihar, against the petitioners on the complaint of respondent no.2.

2. Further submits that respondent no. 2 Balkishore has amicably settled all the issues qua the aforesaid FIR vide MOU dated 07.10.2011, therefore, he does not want to pursue the case.

3. Respondent no. 2 is personally present in the Court. Head Constable Rajinder Prasad has identified him as Balkishore, S/o, Sh. Shanker Lal.

4. Ld. APP for the state submits that Section 452 is not compoundable, therefore, in the light of the order passed by the Hon'ble Supreme Court in case of **Gian Singh Vs. State of Punjab & Anr. in SLP (Crl.) No. 8989/2010**, FIR may not be quashed till the decision of the Hon'ble Supreme Court.

5. Admittedly, Ld. APP submits that in the event of quashing, the FIR, heavy costs should be imposed upon the petitioners.

6. Previously, I have taken the view on the basis of the judgment of the Division Bench of Mumbai High Court in *Crl.m.c.3566/2011*

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 felt that unless and until, the decisions which have been referred above, are set aside or altered, the same decisions are the precedent and binding effect.

7. Ld. Counsel for the petitioner further submits that a cross-case has been registered against the parties and both the parties have agreed to take the complaint back and co-operate each other in getting the FIR quashed.

8. The Petitioner and the respondent are staying in the same locality.

9. In these circumstances, if I do not allow the petition, then the enmity between the parties shall continue.

10. Since, I have already taken view in ***Nari Motiram Hira Vs. Avinash Balkrishnan & Anr.*** in ***Crl.W.P.No.995/2010***

decided on 03.02.2011 and in the interest of justice present FIR no. 70 dated 11.03.2011 and all the proceedings emanating therefrom are hereby quashed and keeping in view the financial condition of the petitioner, I am not inclined to impose costs on petitioner.

11. Accordingly, Crl. M.C. 3566/2011 is allowed.

12. Since the present petition is allowed, Crl. M.A. No. 12678/2011 become infructuous and is disposed of as such.

SURESH KAIT,J

OCTOBER 24, 2011

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