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

+ CRL.M.C. 3743/2011

% Judgment delivered on: 23rd November, 2011

VARUN BHAMBRI Petitioner
Through : Mr. Upender Gutpa, Adv.

versus

STATE & ANR Respondent
Through : Ms. Rajdipa Behura, APP.
Mr. Sugriv Dubey, Adv. for complainant/R2.

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)

1 Learned counsel for petitioner submits that vide FIR No. 25/2008, a case under Sections 354/506/511 Indian Penal Code, 1860 was registered against the petitioner at P.S. Krishna Nagar on complainant of respondent No.2

2 It is further submitted that the matter has been amicably settled

between the parties for a total sum of Rs.50,000/- in Lok Adalat at Tis Hazari court vide order dated 05.06.2011.

3 Respondent No.2/complainant is personally present in the court today. She is identified by IO/ASI Rajender Prasad and her counsel.

4 She submits that she has received the entire settlement amount and she does not want to pursue the case further and has no objection if the FIR is quashed.

5 Learned APP on the other hand submits that offence punishable under Section 452 Indian Penal Code, 1860 is non-compoundable.

6 He further submits that since Government machinery has been mis-used and the precious time of the court has been consumed, therefore, petitioner shall be imposed heavy costs in case the FIR is quashed.

7 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.

8 Previously, I have taken the view on the basis of the judgment of the 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.

9 Therefore, I also feel 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.

10 I find force in the submissions made by learned APP regarding imposing of costs upon the petitioner. The learned counsel for the petitioner on instructions submit that the petitioner is ready to pay Rs.50,000/- towards welfare purposes.

11 Accordingly, I direct the petitioner to deposit a sum Rs.50,000/- in favour of Principal/Head Master, Middle School for Deaf, Sector -4, Rohini, Delhi within a period of 02 weeks. Proof of the same shall be placed on record.

12 The principal/Head Master of the School is directed to keep the above mentioned amount in FDR initially for 03 years with any Nationalized bank and thereafter get it renewed periodically. The interest accrued thereon shall be utilized for the well being of the needy children of the school.

13 Keeping the aforesaid discussion into view, in the interest of justice, I hereby quash the FIR No. 152/2008, under Sections 452/354/506 Indian Penal Code, 1860 registered at P.S. Krishna Nagar

and all the proceeding emanating therefrom.

14 Criminal M.C. 3743/2011 is allowed.

15 Dasti.

SURESH KAIT, J

NOVEMBER 23, 2011

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