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

Judgment delivered on: 13th July, 2015

+ CRL.M.C. 1790/2011

HEM CHAND AND ORS. Petitioners
Represented by: Mr. S.D. Tiwari, Adv.

versus

STATE & ORS. Respondents
Represented by: Mr. Neeraj Kr. Singh,
APP for State.
Mr. S.C. Bhuttan and Mr. Himanshu
Bhuttan, Advs. for R2.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

+ **CRL.M.C. 1790/2011**

1. Vide the present petition, petitioners seek directions thereby setting aside the order dated 18.05.2010 passed by Id. ACMM (West), Tis Hazari Courts, Delhi in case FIR NO. 486/2006 registered at PS-Janak Puri for the offences punishable under Sections 406/420 IPC and order dated 10.01.2011 passed by Id. ASJ-II (West), Tis Hazari Courts, Delhi whereby Id. Court was pleased to dismiss the Revision of the petitioners.

2. Vide order dated 18.05.2010, it was recorded that the complainant Ravinder Kumar, who was the General Secretary of the Union has compromised the matter with the accused persons and thereafter filed a Cancellation Report stating therein that no purpose would be served to direct the accused persons to face the trial.

3. The Complainant, who was the informant of the FIR mentioned above was present in the Court and himself stated that the matter already stands settled and he has no grievance against any of the accused persons. Therefore, Id. ACMM accepted the Cancellation Report filed by the IO.

4. Being aggrieved, the petitioners challenged the same by filing a CrI. Rev. vide no. 77/2/10 and the same was dismissed vide order dated 10.01.2011.

5. It is admitted fact that Complainant Ravinder Kumar was the General Secretary of the Mata Chanan Devi Hospital Workers' Union and there are 107 members in total. Complainant filed a complaint on behalf of all the members against the Management of the said Hospital / respondent, which was culminated into FIR mentioned above. The police investigated the case and filed the Rejection Report and the same was accepted by the Id. ACMM vide order dated 18.05.2010. Moreover, in status report filed before this court, which is at Page 229 of the Paper Book, it is stated that prior to the lodging of the FIR mentioned above, the Complainant raised

an Industrial Dispute against the Management of the aforesaid Hospital with respect to Workers and also against accused Ashok Kumar Bhola. On 20.07.2006, the Industrial Tribunal passed an award and exonerated the accused Ashok Kumar Bhola from any liability.

6. The Management of the Hospital challenged the said award before this Court in Civil Writ Petition no. 16289/2006, wherein Ashok Kumar Bhola and the complainant were made as a party and this Court vide order dated 07.11.2008 disposed of the said Petition for the reason that the Hospital Management and the Union of Workers settled all the disputes. Thus, as per the said order, no dispute is left between the complainant and the Hospital Management.

7. It is further stated that when the PF Department noticed an embezzlement of the provident fund of the workers of the Company of Ashok Kumar Bhola, i.e., M/s. Krishna House Keeping that it has not deposited the provident fund of the workers for which FIR was registered, they initiated an enquiry against Ashok Kumar Bhola and inspected the records of the said Company.

8. During the course of investigation, the EPF Department was contacted, who informed that the Department has appointed a team of three Enforcement Officers of EPF organisation on 20.07.2006, who has conducted an enquiry for the provident fund against the Company of Ashok Kumar Bhola mentioned above for the said

period and until 2006 under the Employees Provident Fund. It is further stated that M/s. Krishna House Keeping Service is covered under Employees Provident Fund and Miscellaneous Provisions Act, 1952 vide Code NO. DL/16233 w.e.f 01.08.1994. The establishment since been inspected from time to time, i.e., on 05.03.1999 by late Sh. Ponj Bhan, Enforcement Officer, for the period December-1997 to February-1999 on 19.07.2004 by Sh. S.C. Meena, Enforcement Officer for the period March, 1999 to 2004 and on 19.07.2006 by the SHO, PS-Janak Puri for the period July, 2004 to June, 2006.

9. As regards the verification of records of Mata Chanan Devi Hospital, the Hospital is covered under a Act, which falls under jurisdiction of other Office and the case against Hospital is in progress under Section 7A of the Employees Provident Fund, 1952, which is being heard by the Assistant PF Commissioner.

10. Keeping in view the reports, evidences / facts on record and the detailed investigation conducted so far, the allegations made on FIR mentioned above could not be proved, therefore, the Police filed the Cancellation Report. Besides, both the parties have compromised the dispute and order dated 07.11.2008 passed by this Court reiterates that the matter has been amicably settled between the parties.

11. The petitioners are claiming to be member of the Union. There are admittedly 107 total member of the said Union. When all

the members of the Union settled, only thereafter, the complainant Ravinder Kumar made a statement before the Police as well as before this Court. Therefore, the Court has accepted the cancellation report. The petitioners submit that they were not taken into confidence. The respondent / Management and the complainant Ravinder Kumar hatched a conspiracy and withdrew the case to which the petitioners are aggrieved. This fact cannot be believed for the reason that the said Hospital paid the PF amount to the concerned Department as is evident from the status report and all members are satisfied with the settlement arrived at between the parties. Moreover, the petitioners were not the informant of the FIR mentioned above

12. In view of above, I find no illegality or perversity in the order dated 10.01.2011 passed in the Revision Petition.

13. Accordingly, the petition is dismissed.

Crl. M.A. 12233/2014

Dismissed as infructuous.

SURESH KAIT, J

JULY 13, 2015

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