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

+ W.P.(CRL) 1117/2013

RAJ KUJUR @ RAJ HESTAN KUJUR Petitioner
Through: Mr. Brijender S. Dhull, Adv.

versus

STATE & ANR Respondents
Through: Mr. Rajesh Mahajan, Additional
Standing Counsel for R-1 with SI
Vijay Kumar, ISC/Crime
Mr. Rahul Sharma, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **09.07.2015**

The present petition was initially filed by the lone petitioner, namely Raj Kujur @Raj Hestan Kujur, seeking quashing of FIR No.1129/2007 (PS Saraswati Vihar) instituted under Sections 452/34/323 & 34 IPC. Later, on the request of the petitioner, the other accused persons of the FIR were also permitted to be arrayed as parties and an amended memo of parties was furnished. A request has been made today for quashing the FIR with respect to all the accused persons namely, the petitioner and the respondents No.3 to 7, who have been impleaded.

A dispute had erupted between respondent No.2/complainant and the employees of Suncity Mall, Pitampura. The petitioner, at the relevant time, was working as Manager in the aforesaid Mall. A shop in the mall has been let out to the complainant. As the allegation stands, the employees of the respondent/complainant were prevented from undertaking their usual work.

In fact, from a bare reading of the FIR, it would appear to be a dispute regarding existence of tenancy and threatened eviction.

However, without going into the substance of the allegation, the learned counsel for the petitioner submits that in Arbitration Proceeding No.156/2008, the parties settled their disputes and differences amicably.

The terms of settlement in the arbitration proceeding are as hereunder:

“(i) The respondent shall hand over the key of the premises bearing Shop No.G-4, North Square Mall, Netaji Subhash Place, Pitampura, Delhi known as Suncity Mall the petitioners in Court on 28th August, 2008 on removal of the articles of the respondent at the said premises, that is, attachments, air conditioner and other miscellaneous goods.

(ii) For the aforesaid purpose, the petitioners undertake that the petitioners, their agents, servants and others shall not cause any interference, hindrance or

obstruction in the free ingress and egress of the respondent to the premises.

(iii) The respondent undertakes that in the process of removing his articles and goods lying at the shop premises, he shall not cause any damage to the structure of the premises.

(iv) The petitioners agree and undertake not to press their claim of damages and loss of Rs.36,64,144/- at any point of time in the future.

(v) The respondent undertakes not to press his claim of damages and loss of Rs.58,19,869/- at any point of time in the future.

(vi) Both the parties undertake not to raise any fresh claim against the other party and not to press any claim raised in the pleadings in the present Suit as well as before the Arbitral Tribunal and agree to bear their respective losses and to give up the damages claimed by them.

(vii) The petitioners undertake to withdraw the present petition and the respondent undertakes to withdraw the arbitral proceedings pending before the Arbitral Tribunal.

(viii) The respondent undertakes to give a TDS certificate for the rent paid to the petitioners for the year ending 31st March, 2008.

(ix) The petitioners undertake to bear 50% of the unpaid maintenance charges up-to-date to the maintenance agencies and the respondent undertakes to pay the balance 50% of the unpaid maintenance charges to the petitioners, to be paid to the maintenance agencies.

(x) The respondent undertakes to bear the electricity charges till 31st October, 2007 or till the date of disconnection, whichever is later in point of time.

(xi) The respondent shall have no objection to the quashing of the FIR No.1129/2007 dated 13.12.2007, Police Station Saraswati Vihar under Sections 452/323/341/34 IPC qua the petitioners and the Suncity Mall officials and shall swear an affidavit to this effect in

support of the quashing petition to be moved jointly by the parties under Section 482 Cr.P.C. before the concerned criminal Court. The respondent shall, however, be at liberty to continue to press charges against the police officials concerned.”

Learned counsel for respondent No.2, after initial resistance to the prayer of quashing the FIR, relented.

Considering the fact that the dispute between the parties have already been settled before the Arbitration Proceeding, wherein the respondent No.2 has agreed that he shall not press any claim for damages and losses at any point of time in future and that the respondent and the accused persons would jointly approach the Court for seeking quashing of the FIR, this Court is inclined to quash the subject FIR. No useful purpose would be served in allowing the investigation to continue in the aforesaid FIR as it would be an abuse of the process of the Court.

Mr. Mahajan, Additional Standing Counsel, submits that after investigation, chargesheet has been submitted on 20.11.2014.

As a result of the aforesaid discussion, FIR No.1129/2007 (PS Saraswati Vihar) and all other resultant proceedings including chargesheet are hereby quashed.

The petition is allowed and disposed of accordingly.

ASHUTOSH KUMAR, J

JULY 09, 2015

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