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

+ W.P.(CRL) 1474/2015

MANISH DHILLON & ORS Petitioners

Through: Mr.O.P.Wadhwa, Adv.

versus

STATE & ANR Respondents

Through: Mr.R.S. Kundu, ASC with
Mr.Himanshu Pal & Mr.Vishesh
Wadhwa, Advs.
Mr. Anubhav Dubey, Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **18.08.2015**

The petitioners seek quashing of the FIR No.664/2015 dated 07.06.2015 (PS Vasant Kunj) instituted for offences under Sections 392/34 of the IPC.

The respondent no.2, who is the driver of a Canter, lodged a complaint alleging that on 07.06.2015, while he was coming from Rewari after loading goods in his Canter, his Canter was hit by a Swift Car from behind.

In the First Information Report, after giving the registration number of the said car, it has been alleged by respondent no.2 that he was made to come out of the vehicle, manhandled and divested of his personal belongings namely purse, money and driving license.

The respondent no.2 is then stated to have run away and hid himself behind

bushes.

Information was given by him to the police and when he returned to the place where the accident took place, he found his Canter missing. It was, therefore, alleged that the petitioners who were the occupants of the Swift car which met with an accident with Canter vehicle had ran away with the vehicle in question.

A case under Section 392, therefore, was registered against the petitioners.

Learned counsel appearing for the petitioner submits that from the averments made in the First Information Report itself, it would appear that no case under Section 392, of the IPC can at all be said to be set out.

Section 392 of the IPC provides for punishment for robbery. Robbery is defined under Section 390 of the IPC.

It has been submitted that looking at the definition of the term 'robbery', it can be said with certainty that no offence under Section 392 can at all be said to have been made out and only to add gravity to the offence, section 392 was added.

In fact, as has been submitted, it is a case of a minor accident on the road and unruly behaviour of the petitioners with the driver of the Canter (informant).

It is further submitted that the Canter vehicle was not found to be parked at the place of accident as the same had been shifted to a distance deliberately.

Learned counsel for the petitioners submits that in order to prevent any road

blockage, the petitioners made efforts to remove the vehicle from the middle of the road to a nearby distance.

The cartons loaded on the Canter were also not taken away, but only to ensure their safety, they were kept in some of the shops nearby.

Considering this aspect of the matter, the informant, in his wisdom, thought it proper not to prosecute this case any further.

Pursuant to the notice, the informant and his counsel are present in court and they state that they have no objection if the case is quashed.

It has been submitted on behalf of the petitioners that they are young students having absolutely untainted background and are about to proceed abroad for pursuing higher studies. The pendency of this case would not only prevent them from being admitted in respectable institutions but would also seriously hamper their future prospects.

Mr. Kundu, learned Additional Standing Counsel though does not dispute the fact that the petitioners are students, submits that the offence under Section 392 of the IPC entails the maximum punishment of 10 years and the offence does not fall in the Schedule of Section 320 of the Code of Criminal Procedure which could be compounded even with the permission of the Court.

Considering the averments made in the FIR, the background under which the Canter vehicle was removed from the middle of the road, goods being in safe custody and not stolen, no offence under Section 390 IPC, punishable under Section 392 of the IPC can be said to have been made out. However,

without awaiting the final report of the investigation under Section 173, this Court has applied its mind over the question of quashing of the FIR only on the issue that the informant has now no grievance against the petitioners and that the petitioners are students who bear clean antecedents.

Considering the aforementioned facts, FIR No.664/2015 (PS Vasant Kunj) is quashed.

The petition is allowed and disposed of accordingly.

ASHUTOSH KUMAR, J

AUGUST 18, 2015/ab