

#67

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 22.01.2016

W.P.(CRL) 217/2016

MANJULA SHARMA & ORS

..... Petitioners

Through Counsel (Appearance not given)

versus

STATE (GOVERNMENT OF NCT OF DELHI) & ANR

..... Respondents

Through Ms. Kamna Vohra, Additional
Standing Counsel for the State with SI
Anand Kumar

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure (Cr.P.C.), 1973 seeking quashing of FIR No.963/2015, under Sections 380/454 Indian Penal Code, 1860 (IPC), registered at Police Station Mehrauli.
2. The subject FIR has been instituted on a complaint filed by the complainant against his own mother, sister, brother-in-law and step father wherein it is alleged by the complainant that since the latter had access to his

house in his absence, they broke open the lock of his almirah and stole valuables including gold, jewellery and cash.

3. It is an admitted position that the parties have been litigating against each other as is evident from the details provided hereunder:

- (i) Complaint under section 12 of Protection of Women from Domestic Violence Act vide CC No: 59/1/14 title as Sumita Sharma Vs. Sudesh Sharma @ Sudesh Dogra (filed by wife of Respondent No.2 against Petitioners).
- (ii) Complaint under section 12 of Protection of Women from Domestic Violence Act vide CC No. 107/1/14 Manjula Sharma Vs. Amit Kumar Sharma (filed by Petitioner No. 1 against Amit Sharma (son of petitioner / Respondent No. 2)
- (iii) Civil Suit titled as Manjula Sharma Versus Amit Sharma & Ors bearing No. 739/2014, was pending before the Court of Ms. Tanvi Khurana, Civil Judge (filed by Petitioner No.1 against Amit Sharma (son of petitioner / Respondent No.2).
- (iv) Complaint under section 145 CrPC in case titled as Manjula Sharma Versus Amit Sharma & Anr before SDM, Saket, New Delhi.
- (v) FIR No. 46/2014, U/s 354A/506 IPC, PS Mehrauli.
- (vi) Present FIR No. 963/2015, U/s 454/380 IPC, PS Mehrauli (filed by Amit Sharma against Manjula Sharma, Sudesh, Manisha Sharma and Om Dwivedi @ Om Prakash).

4. Counsel for the parties state that with the aid and intervention of the Mediation Centre, Saket, New Delhi the parties to the aforesaid disputes including the subject FIR have entered into an amicable settlement dated 01.09.2015. The salient terms and conditions of the aforesaid settlement agreement dated 01.09.2015 are as under:

- “(i) It is agreed between the First Party (Sumita Sharma) and her husband Mr. Amit Sharma (Respondent No.2) shall give a vacant and peaceful possession of the house bearing No. D-10, Flat No. 7 Paryavaran Complex, Sidulajab, New Delhi to the Second Part (Petitioner No. 1 & 2 and the second party shall pay a sum of Rs. 25,00,000/- (Rupees Twenty Five Lakh Only) to the first party by way of demand draft. It is further agreed between the parties that after the payment of aforesaid sum of 25,00,000 (Rupees Twenty Five Lakh Only) there shall be no claim of first party shall be left over the aforesaid property and first party shall handover the vacant possession to the second party. It is further agreed in between the parties that Rs. 25,00,000/- (Rupees Twenty Five Lakh Only) shall be payable in favour of Sh. Amit Sharma Respondent No.2 as per the following schedule along with the time line of withdrawal of cases;
- (ii) Rs. 4,00,000/- (Rupees Four Lacs Only) at the time of withdrawal of complaint under 12 of PWDV Act, 2005 filed by first party against and second party vice a versa.
- (iii) That second party Sudesh Kumar Sharma (Petitioner No.2) would move petition for quashing of FIR No. 46/2014, PS Mehrauli before the Hon’ble High Court of Delhi preferably before 15th September, First party under take to provide necessary documents, affidavits, in support of quashing of aforesaid FIR. Smt. Sumita Sharma further under take that she will appear before the Hon’ble High Court of Delhi on the appointed date to give her of no objection statement regarding the aforesaid FIR. The second party under take make payment of Rs. 1,00,000/- (Rupees One Lac Only) at the time of quashing of the aforesaid FIR and the expenses regarding quashing of the FIR shall be borne by the second party.
- (iv) Rs. 17,00,000/- (Rupees Seventeen Lakh Only) shall be payable by the second party to the first party before the court of Ms. Tanvi Khurana, Civil Judge, Saket

Courts, New on or before 25th September, 2015 and the first party has agreed to give keys of the aforesaid house along with the receipt of handing vacant and peaceful possession of the property bearing No. D 10, Flat No. 7, Prayvaran Complex, Saidulajab, New Delhi to the second party with the signed NOC for electricity documents. Upon exchange of key and payment vide demand being done aforesaid civil suit shall be disposed of by way of compromise decree wherein complete and absolute title of the property would be given in the name of second party to the exclusion of one and all.

- (v) That second appty would move a petition for quashing of FIR No. 963/2015, U/s 454/380 IPC, PS Mehrauli, South District, New Delhi before the Hon'ble High Court of Delhi on or before 30th Octorber, 2015. First party undertke to provide necessary document, affidavit in support of quashing of aforesaid FIR. First party (respondent No.2) further undertake that he shall apepar in the Hon'ble High Court of Delhi on the appointed date to give his no objection statement regarding the quashing of aforesaid FIR. The second party undertake of makig final payment of Rs. 3,00,000/- (rupees three lacs only) to the first party at the time of recording of the statement in petition of quashment before Hon'ble High Court of Delhi.

That on the payment of aforesaid sum of Rs. 25,00,000/- (Rupees Twenty Five Lakh Only) neither parties hall have any claim whatsoever against each other with respect to any movable and immovabe property of any nature and description whatsoever acquired in the past, present and future. Any such claim by either party shall be deemed as null and void ab initio in view of the present full and final settlement.”

- 5.** A copy of the above stated settlement agreement dated 01.09.2015 is annexed as Ex. C-1 to the present petition.

6. Further the complainant namely Amit Sharma (Respondent No.2) has filed an affidavit, which is at page 33 of the present petition in support of the present petition seeking quashing of the subject FIR.

7. Furthermore, the complainant who is present in person in Court today and has been identified by the Investigating Officer in the subject FIR namely, SI Anand Kumar, Police Station - Mehrauli states that in view of the amicable resolution as afore-stated he is no longer keen to prosecute the subject FIR and the proceedings arising therefrom.

8. In pursuance to the settlement dated 01.09.2015, a sum of Rs.22 lakhs has already been received by the complainant. The balance sum of Rs. 3 lakhs has been brought to the Court in the shape of Demand Draft bearing No.649725, drawn on Allahabad Bank. The complainant acknowledges receipt thereof subject to encashment.

9. In view of the foregoing, since the dispute which led to the registration of the subject FIR has been amicably resolved between the complainant on the one hand and his mother and other family members on the other, without undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR.

10. Consequently, FIR No.963/2015, under Sections 380/454 IPC, registered at Police Station- Mehrauli and the proceedings arising therefrom are hereby set aside and quashed *qua* all the petitioners subject to their depositing a sum of Rs.5,000/- each with the Victims' Compensation Fund, Government of NCT of Delhi within a period of two weeks from today. A copy of the receipt of the said deposit shall be furnished to the concerned IO.

11. The petition is disposed of accordingly.

12. *Dasti.*

SIDDHARTH MRIDUL, J

JANUARY 22, 2016

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