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

Date of decision: 30th March, 2016

+ W.P.(CRL) 310/2016

SURENDER KUMAR SHARMA Petitioner

Through Mr. M.L. Yadav, Advocate

versus

STATE & ORS. Respondents

Through Ms. Kamna Vohra, ASC (Crl.)
SI Rizwan Khan, PS Seelampur
Mr. S.D. Sharma, Advocate for R-2
along with respondent no. 2
Ms. Sangita Bhayana, Adv. for R-3
along with Respondent no. 3

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, 1973 seeking quashing of FIR No. 553/2013, under Sections 420/467/468/471 IPC registered at Police Station- Seelampur, Delhi and the proceedings arising therefrom.

2. The subject FIR came to be registered on an allegation by Shri Kailash Pathak, the respondent no. 2/complainant herein that Shri Surender Kumar Sharma, the petitioner herein, who was also the joint owner of the subject property, disposed of the same to Ms. Muntazim Fatima, the respondent no. 3 herein after forging the complainant's signatures on the relevant documents.

3. Counsel for the parties state that subsequent to the registration of the subject FIR, the parties have entered into a Settlement Deed dated 28th January, 2016 whereby the dispute between the parties has been amicably resolved. The said Settlement Deed is annexed to the present petition as Annexure 'P-5'. The salient terms and conditions of the said Settlement Deed are as follows:-

“1. In the year 2008, the First Party and Second Party invested some money and purchased Flat bearing no. 285, Double Storey, Welcome, Seelampur-III, Delhi-110053 with the joint funds which was later on sold by the First Party to Smt. Muntazim Fatima without the consent of the second party with which disputes arose between the parties.

2. The parties entered into amicable settlement vide deed of Memorandum of Understanding dated 6.2.2015 wherein out of the sale proceed the Second Party received a sum of Rs. 5 lacs in cash from the First Party and on 6.2.2014, the Second Party received further sum of Rs. 10 lacs in addition to the aforesaid sum of Rs. 5 lacs already paid.

Thus a sum of Rs. 15 lacs were paid and received by the Second Party in entire satisfaction of his claims in relation thereto.

3. With the aforesaid settlement between the First Party and Second Party, the First Party filed writ petition for quashing of FIR No. 553/2013 u/s 420/468/471 IPC PS Seelampur registered on the complaint of Second Party against the First Party. Notice was issued by Hon'ble Delhi High Court the State to file status report. Accordingly, status report was filed by the State stating that Smt. Muntazim Fatima was also the effected party in the case. In view thereof, Smt. Muntazim Fatima was also made a party in the said writ petition and filed amended memo of parties thereto whereupon notice was issued to Smt. Muntazim Fatima whereafter she appeared and stated that her claim was not satisfied as chain of documents/original documents had not been supplied to her by the First Party and objected to the quashing of the FIR under reference.

4. In the meanwhile, the respondent no. 3 filed a petition under Section 439(2) of Cr. P.C. being Crl. M.C. No. 5723/2014 titled "Smt. Muntazim Fatima vs. State, NCT of Delhi & Ors." for cancellation anticipatory bail granted to the petitioner by learned trial court on the ground that her claim in the transaction had not been satisfied. In this view of the matter and in view of the facts explained hereinabove, the petition filed by the First Party was withdrawn by the First Party vide order dated 12.8.2015 assuring the Hon'ble Court that First Party would settle the claim of Smt. Muntazim Fatima.

5. Consequently, the petition filed by Smt. Muntazim Fatima for cancellation of bail was heard and passed directions vide order dated 11.9.2015 directing the First Party and Second Party and the original owner Smt. Inder Mohini for compliance in terms of the aforesaid order. Thereafter, vide order dated 23.11.2015, the aforesaid bail cancellation petition of Third Respondent was disposed of.

6. In a nutshell, the First Party sincerely complied with the assurance given to the Hon'ble Court while withdrawing the aforesaid petition whereby the claims of the second party and Smt. Muntazim Fatima stood fully satisfied.

7. It is agreed between the parties hereto that the second party shall file an affidavit in support of the petition and their No Objection for quashing the FIR in the petition being filed by the First Party.

8. It is stated that the contents of the present settlement deed have been read over and explained to the parties in vernacular and having find the same to be true and correct, the parties have signed this Settlement Deed.”

4. Counsel for the parties further state that pursuant to the above-stated Settlement Deed, the subject property has been jointly sold by Shri Surender Kumar Sharma (petitioner) and Shri Kailash Pathak (respondent no.2/complainant) to Ms. Muntazim Fatima, the respondent no. 3 herein by way of requisite documents including General Power of Attorney and Agreement to Sell. Further, Shri Kailash Pathak, the respondent no.2/complainant also acknowledges receipt of his share from the proceeds of the sale *qua* the subject property.

5. The parties, who are present in Court in person today and have been duly identified by the Investigating Officer in the subject FIR namely SI Rizwan Khan, Police Station- Seelampur, Delhi, state that in view of the

amicable resolution of the dispute as afore-stated, the subject FIR may be quashed and set aside qua the petitioner herein.

6. In the present case, it is observed that the offences in the subject FIR do not fall within the exempted categories of serious/heinous offences which ought not to be quashed on the ground of an amicable resolution of the disputes. [Ref. ***Gian Singh vs. State of Punjab and Anr.*** reported as (2012) **10 SCC 303**]. The offences alleged to have been committed in the subject FIR are private in nature and do not have a serious impact on society.

7. In view of the foregoing, since the dispute that led to the registration of the subject FIR has been settled amicably by and between the parties without any undue influence, pressure or coercion; and the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

8. Resultantly, the FIR No. 553/2013, under Sections 420/467/468/471 IPC registered at Police Station- Seelampur, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* the petitioner subject to his depositing a sum of Rs. 10,000/- with the Victims' Compensation Fund within a period of two weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR.

9. With the above directions, the writ petition is allowed and disposed of accordingly.

SIDDHARTH MRIDUL, J

MARCH 30, 2016
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