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

+ W.P.(CRL) 762/2016

SHIEKH SAMIULLAH Petitioner

Through: Mr.Marouf Khan, Advocate

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through: Mr.Ashish Aggarwal, A.S.C. for the
State with SI Parmendra Kumar PS
Paharganj, Delhi
Mr.Rakesh Malhotra, Advocate for
the complainant with complainant in
person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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07.04.2016

1. The present writ petition has been filed by the Petitioner under Articles 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No. 165/2013, under Section 420 IPC, registered at P.S. Pahar Ganj, Delhi and consequential proceedings arising therefrom.

2. Petitioner is not present today and Mr.Marouf Khan, Advocate has appeared from Srinagar along with medical certificate and discharge summary of the petitioner. Verification has been done by SI Parmendra Kumar by calling to Noora Hospital, Srinagar on the telephone number mentioned on the discharge summary. The hospital has confirmed that the petitioner has been operated on 26th March, 2016 and discharged on 2nd April, 2016.

3. Brief facts, as mentioned in the petition are that the FIR came into

existence on the complaint of Respondent No.2 who had transferred a sum of ₹ 8,00,000/- on 18th February, 2013 by way of RTGS to the account of the petitioner. He later on filed a complaint against the Petitioner for defrauding him and misappropriating the said amount.

4. It has been stated that both the parties have arrived at an amicable settlement out of their own sweet will, without any pressure and force from any corner and complainant does not wish to pursue the criminal case against the Petitioner any further and want that the said FIR and all proceedings emanating therefrom may be quashed.

5. Learned counsel for the Petitioner submits that out of the entire amount of ₹8,00,000/- the Petitioner has already returned ₹ 6,00,000/- in installments to the complainant and the balance amount of ₹2,00,000/- has been paid today by way of pay order for a sum of ₹ 1,50,000/- and cash amount of ₹ 50,000/-. It is further submitted by learned counsel for the petitioner that since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the Petitioner any more, therefore, the FIR may be quashed.

6. Respondent No.2/complainant is present in Court today alongwith his counsel. He submits that he has already received the said amount of ₹ 8,00,000/- from the Petitioner. He also affirms that he has amicably settled the dispute with the Petitioner and is not interested in prosecuting the Petitioner and submits that the said FIR and all proceedings emanating therefrom may be quashed.

7. On behalf of the State, it is submitted that currently the trend emerging is to initiate criminal proceedings to pressurize the other party to

make the payment/settle the dispute in order to avoid arrest and prosecution. Thus, the complainant party is able to get the recovery effected without filing any civil suit or paying any court fee and in fact execution takes place on a non-existent decree so some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery virtually as a recovery agency.

8. In view of the aforesaid amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the Petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

9. However, in the facts and circumstances of the case, it is desirable that the Petitioner as well as complainant be burdened with cost. Accordingly, the Petitioner and complainant are directed to deposit the cost of ₹ 25,000/- each with the “Army Central Welfare Fund” at Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi, within two weeks from today and proof thereof shall be placed on record.

10. Accordingly, the petition is allowed and FIR No. 165/2013, under Section 420 IPC, registered at P.S. Pahar Ganj, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner and complainant.

11. A copy of this order be sent to the Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi for information.

Order *dasti*.

PRATIBHA RANI, J.

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