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

DECIDED ON : 9th MARCH, 2016

+ **CRL.M.C. 987/2016**

RAJESH PANWAR & ORS. Petitioners

Through : Mr.Sunil Sharma, Advocate with
Mr.Ravi Prakash, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR. Respondents

Through : Mr.Raghuvinder Varma, APP with
SI Vijay Kasana.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.Garg, J. (Oral)

1. Present petition under Section 482 Cr.P.C. has been preferred by the petitioners for quashing of FIR No.285/2015 registered under Sections 506/509/354(D)/354/34 IPC at PS Lodhi Colony. It is stated that the matter has been settled with the complainant / respondent No.2.

2. I have heard the learned counsel for the petitioners and have examined the file. Learned counsel urged that since the matter has been settled by the complainant with her free consent, no useful purpose will be served to continue with the criminal proceedings. Reliance has been placed on '*Shiji @ Pappu & Ors. Vs. Radhika & Anr.*', AIR 2012 SC 499.

3. At the outset, it may be mentioned that earlier also the petitioners had filed W.P.(Crl.) 1969/2015 & W.P.(Crl.) 2944/2015 for quashing of the FIR in question on the basis of settlement with the complainant. When the matter was taken up for hearing on 15.12.2015, considering the gravity of the offence the FIR was not quashed. Learned Addl. Standing Counsel submitted that the investigation was almost complete and charge-sheet was expected to be filed within two weeks. In view of that, learned counsel for the petitioners therein sought permission to withdraw the said writ petitions. The same were dismissed as withdrawn.

4. All the petitioners now have filed a joint petition under Section 482 Cr.P.C. in the form of Crl.M.C. 987/2016 for quashing of the FIR. In the petition only at page No.7 in para No.6, a brief description has been given that W.P.(Crl.) 1969/2015 was withdrawn by the petitioners on the ground that the charge-sheet had not been filed by the Investigating Officer. Since the charge-sheet has now been filed, the present petition has been instituted. There is no mention regarding withdrawal of W.P.(Crl.) 2944/2015. The present petition describes number of petitioners as 1 to 3 whereas the total numbers of assailants charge-sheeted are four. Apparently, there was no change of circumstances to file

the present Crl.M.C. 987/2016 under Section 482 Cr.P.C. to seek similar relief which was declined earlier on 15.12.2015. The petitioners' conduct is unfair and unreasonable as they attempted to file the present petition in the form of Crl.M.C. 987/2016 under Section 482 Cr.P.C. apparently to conceal the filing of the earlier petitions described as W.P.(Crl.) 1969/2015 & W.P.(Crl.) 2944/2015.

5. Perusal of the complaint lodged by 'X' (changed name) on 23.08.2015 reveals that there are serious allegations against all the petitioners whereby the victim was not only chased in two vehicles No. PB 08 AW 1088 & HR 49 D 8295 but was sexually molested. The word 'Police' was written on the rear of white Bolero. She was criminally intimidated and slapped. It was so when she was driving the vehicle and her brother and husband were with her. Learned counsel for the petitioners urged that the complainant's husband is a police officer and there is no possibility of any such incident to have taken place in his presence. This submission is devoid of merits as the complaint being false / tainted is not under challenge. The present petition has been filed only on the basis of the alleged settlement of the dispute with the complainant. Memorandum of understanding dated 04.03.2016 has been placed on record. However, it does not reveal as to why, for what reasons and on what terms, the matter

has been settled between the parties. Again, para No.1 discloses the first party as party Nos.1 to 3. It is pertinent to note that in earlier writ petition No.1969/2015, there was no 'date' on MOU and in writ petition No.2944/2015, the date of MOU has been given as 11th December, 2015 on which it was attested by Notary Public. The column of date is blank in the MOU. The petitioners have not alleged if the complainant had any ulterior motive to lodge complaint against all of them when they were not even acquainted with her.

6. The investigation is complete. Charge-sheet reveals that statement of the prosecutrix has been recorded under Section 164 Cr.P.C. in which she has reiterated her version given to the police. The citation relied upon by the petitioners' counsel is not applicable to the facts and circumstances of the present case. In that case '*Shiji @ Pappu & Ors. Vs. Radhika & Anr.*' (supra) the incident had its genesis in a dispute relating to the access to the two plots which were adjacent to each other. That was not a case of broad day-light robbery for gain. It was a case which had its origin in the civil dispute between the parties (Para 14 of the judgment). The situation is not so in the instant case. The petitioners during day time had allegedly dared to chase the complainant while she was travelling in

her vehicle and had audacity to surround her vehicle from both the sides by putting their Bolero vehicles and also to molest her.

7. Considering the serious allegations and gravity of the offence and the fact that earlier the W.P.(CrI.) 1969/2015 & W.P.(CrI.) 2944/2015 were dismissed as withdrawn, I find no sufficient ground to exercise the powers under Section 482 Cr.P.C. to quash the FIR in question merely because the matter is stated to have been settled with the complainant. The petition is dismissed.

8. Filing of the instant petition in the form of CrI.M.C. under Section 482 Cr.P.C. apparently is an abuse of the process of the Court and for that the petitioners are burdened with costs ₹25,000/- to be deposited within a week with the Delhi High Court Legal Services Committee.

9. Observations in the order shall have no impact on the merits of the case. Copy of the order be sent to the Trial Court for information.

10. Registry shall ensure the compliance of the order of deposit of costs.

(S.P.GARG)
JUDGE

MARCH 09, 2016 / tr