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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1586/2016 and Crl.M.A.8233/2016**

FAHRENHEIT AUTOMOBILES PVT. LTD. & ORS Petitioners
Through: Mr.Vishal Gohri, Advocates
versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondents
Through: Ms.Kamna Vohra, A.S.C. for the
State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.05.2016

1. The present writ petition has been filed by the Petitioner under Articles 226 of the Constitution of India for quashing of FIR No.11/2016, under Sections 406/409/420/120B IPC, registered at P.S.Inderpuri, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as stated by the Petitioners in the present petition, are that present FIR was registered on the complaint of respondent No.2 that his car was misused by Fahrenheit Automobiles Pvt. Ltd., Moti Nagar, New Delhi when he had sent his car as the air conditioning was not properly functioning. When the car was received by the petitioner No.1 the car showed a reading of 42556 kms on odometer. The service advisor of petitioner No.1 company informed respondent No.2 that there is fault in A/C pipe which needs to be replaced. On every visit to the company, respondent No.2 was assured that his car will soon be fixed and delivered. It is further stated that even after two months when car was not delivered and respondent No.2 asked them to return the car. On visiting the workshop of petitioner No.1/company, respondent No.2 found the car in a damaged condition,

many parts were missing and the odometer meter reading showed the reading as 46527 kms.

3. During the course of proceedings the matter was settled and as per memorandum of understanding the petitioners were to pay Rs.20,00,000/- (Rupees twenty lacs only) to the complainant. The settled amount of Rs. Rs.20,00,000/- (Rupees twenty lacs only) had been deposited with the Registrar General of this Court in compliance of the order dated 05.02.2016 passed in anticipatory bail applications of the Directors of the petitioner No.1/Company. Vide order dated 30.3.2016 the settled amount Rs.20,00,000/- (Rupees twenty lacs only) deposited with the Registrar General of this Court was released to the complainant along with accrued interest. It is was further agreed that the vehicle seized in this case shall be taken by the petitioners and the complainant shall handover all the original documents pertaining to the said vehicle. Copy of the Memorandum of Understanding is annexed to the petition as Annexure P-6. Hence the present petition has been filed before this Court for quashing of the FIR in question.

3. It has been stated that both the parties have arrived at an amicable settlement and complainant does not wish to pursue the criminal case against the petitioners any further and wants that the said FIR and all proceedings emanating therefrom may be quashed.

4. Offences punishable under Sections 409/120B IPC are non-compoundable offences. In the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim

and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. On behalf of the State/R-1, learned Addl. Standing Counsel further submits that some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery.

6. 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.

7. Accordingly, the petition is allowed and FIR No.11/2016, under Sections 406/409/420/120B IPC, registered at P.S.Inderpuri, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioners herein.

8. Petitioner'No.1/company is directed to deposit the cost of ₹ 55,000/- (Rupees Fifty five thousand only) 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.

9. 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.

MAY 18, 2016

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PRATIBHA RANI, J.

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