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

+ W.P.(CRL) 86/2017

RIZWAN ALI & ANR Petitioners
Through: Mr. Dalip Kumar Santoshi,
Advocate with Mr.Vijay Singh, Advocate.

versus

STATE OF NCT OF DELHI Respondent
Through: Mr.Sanjay Lao, ASC for the State
with Mr.Siddharth Sindhu, Advocate along
with SI R.N. Pathak, PS Jagat Puri, Delhi.
Mr.Manish Malhotra, Advocate for R-2
along with Mr.Alok Tiwari, AR of the
respondent no. 2/complainant.

+ W.P.(CRL) 89/2017

RIZWAN ALI & ANR Petitioners
Through: Mr. Dalip Kumar Santoshi,
Advocate with Mr.Vijay Singh, Advocate.

versus

STATE OF NCT OF DELHI Respondent
Through: Mr.Sanjay Lao, ASC for the State
with Mr.Siddharth Sindhu, Advocate along
with SI Nipender Kumar, PS Madhu Vihar,
Delhi.
Mr.Manish Malhotra, Advocate for R-2
along with Mr.Alok Tiwari, AR of the
respondent no. 2/complainant.

CORAM:
HON'BLE MR. JUSTICE VINOD GOEL

ORDER
23.08.2017

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VINOD GOEL, J. (ORAL)

CrI.M.A. 453-454/2017 (exemptions) in W.P.(CRL) 86/2017
CrI.M.A. 462-463/2017 (exemptions) in W.P.(CRL) 89/2017

Exemption allowed subject to all just exceptions.

Applications are disposed of.

W.P.(CRL) 86/2017 & W.P.(CRL) 89/2017

1. By writ petition, being W.P. (Crl.) 86/2017, the petitioners have invoked the writ jurisdiction of this court under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.PC') for quashing of the FIR bearing No.0121/2016, registered on 22.04.2016 with Police Station Jagat Puri, Delhi under Section 408/34 of IPC. By writ petition, being W.P. (Crl.) 89/2017, petitioners seek quashing of the FIR No.227/2016 registered on 06.04.2016 with Police Station Madhu Vihar, Delhi, under Sections 408/34 IPC. Both these FIRs were registered on the complaint of respondent No.2.
2. It is submitted that both the petitioners were working with the respondent no. 2 company. The State Bank of India has authorized M/s HITACHI to maintain and replenish cash in ATM machines in various areas of New Delhi and NCR. In turn M/s HITACHI engaged the complainant company for the purpose. On 08.01.2016, on making complaint by customers,

inquiries were conducted and a sum of Rs.62,500/- was found deficient which led to registration of FIR No. 0121/2016. Similarly, on another complaint of the customer made on the same day, Rs.7,500/- was found deficient for which FIR No. 227/2016 was registered. It is alleged that the petitioners had misappropriated the amount.

3. It is submitted that the petitioners had settled the matters with the respondent no. 2/company and had deposited the misappropriated amount with them. Respondent no. 2 had issued a certificate dated 01.09.2016 to the effect that the short amount qua petitioner no. 1 was Rs.35,000/-, out of which Rs.10,878/- was paid to them in cash by the petitioner no. 1 and the amount of Rs.24,122/- was adjusted against full and final settlement in both the FIRs. Respondent no. 2 had issued another certificate dated 01.09.2016 to the effect that the short amount qua petitioner no. 2 was Rs.35,000/-, out of which Rs.10,654/- was paid to them in cash by the petitioner no. 2 and the amount of Rs.24,346/- was adjusted against full and final settlement in both the FIRs.
4. Vide two separate resolutions dated 28.07.2017, the Board of Directors of the respondent no. 2 company had authorized Mr.Alok Tiwari AGM (HR & IR) to make statement before the court for the purpose of recording the settlement. Mr.Alok Tiwari has also filed his affidavit in both the matters to the effect that the respondent No.2 had settled the matters with the petitioners. He submits that since they had received the

misappropriated amount from the petitioners, the respondent no. 2 does not want to pursue with the said FIRs. He submits that both FIRs may be quashed.

5. The matter has been amicably settled between the parties and no purpose would be served in further pursuing with the said FIRs. Hence, in the facts and circumstances of the case to secure ends of justice, FIR bearing No.0121/2016, registered on 22.04.2016 with Police Station Jagat Puri, Delhi under Section 408/34 of IPC and FIR No.227/2016 registered on 06.04.2016 with Police Station Madhu Vihar, Delhi, under Sections 408/34 of IPC and proceedings arising out of both the said FIRs are hereby quashed subject to both the petitioners depositing total cost of Rs.10,000/- for both the cases with the Prime Minister's Relief Fund within a period of four weeks from today. Copy of receipts be filed within two weeks thereafter and copy whereof be also supplied to the IO.
6. Both the petitions are disposed of accordingly.

AUGUST 23, 2017

"shailendra"

VINOD GOEL, J.