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

\+ CRL.M.C. 951/2017

ROOP CHAND & ORS ..... Petitioner

Represented by: Mr. Pradeep Kumar Sharma, Adv.

versus

STATE & ANR. ..... Respondent

Represented by: Mr. Ashok Kr. Garg, APP with SI Vishan Kumar PS Kotwali, SI Ghanshyam Kishore I/C PP Dwarka Courts.
Mr. Vikash Mishra, Adv. for R-2.

**CORAM:**
**HON'BLE MS. JUSTICE MUKTA GUPTA**

**O R D E R**

% **08.03.2017**

Crl.M.A. 3974/2017

Exemption allowed subject to just exceptions.

CRL.M.C. 951/2017

1. By the present petition the petitioners Roop Chand, Dhara Singh, Brijesh @ Bittu, Daya Ram and Rambir @ Raju seek quashing of FIR No. 95/2008 under Sections 380/411/457/34 IPC registered at PS Kotwali, Delhi on the complaint of Respondent No.2 and the proceedings pursuant thereto on the ground that the parties have settled the matter.

2. Learned APP for the State on instructions from Investigating Officer submits that in the above-noted FIR besides the five petitioners two other juveniles were involved who have since been discharged by the Junenile Justice Board, thus the trial is pending only against the five petitioners

named herein and the respondent No.2 is the only complainant/ victim in the above-noted FIR.

3. Respondent No. 2 is present in Court and is identified by the learned counsel and the Investigating Officer. He states that he has settled the matter with the petitioners vide the compromise deed dated 19th May, 2016 on the following terms and conditions:

> *"1. That it is mutually agreed that First Party shall not claim any ownership right upon the articles, jewellery items, cash etc. released to the Second Party on Superdari vide order 27.08.2008, subsequently the said order was modified vide order dated 16.09.2008 thereby condition to produce the currency notes, put in earlier order has been dispatched with vide subsequent order dated 16.09.2008 by the Ld. M.M. Tis Hazari Courts Delhi. Subsequently vide order dated 19.01.09 and certain cash amount i.e. ₹20,00,000/- (Twenty Lacs) was again released in favour of Second Party on Superdari by the Ld. M.M. Tis Hazari Courts, Delhi. Similarly the Second Party can take the FDRs kept on Court file and can withdraw the said amount by encashing the same and First Party (Shri Daya Ram) has no objection of any kind in fact will cooperate in getting the said amount cashed from the bank and Shahra India, Kaptanganj, Basti, U.P.*
>
> *2. That the First Party had no objection in releasing the case properties seized during the investigation by the IO in favour of Second Party herein.*
>
> *3. That Second Party will cooperate/ appear & give NOC (Affidavit) in quashing of the FIR No.95/08 P.S. Kotwali, u/S 380/411/457/34 IPC dated 09.06.08 from the Hon'ble High Court of Delhi at New Delhi.*
>
> *4. That the present settlement deed is being executed by the respective parties out of their own sweet will, without any force, fraud, coercion or undue influence from either side.*
>
> *5. That both the parties undertake to abide by the terms and conditions as mentioned above in its true letter and spirit."*

4. Respondent No.2 states that since he has settled the matter with the petitioners and does not wish to pursue the above-noted FIR and the proceedings pursuant thereto, the same be quashed. He further prays that the superdari-namas which he has executed to receive the various cash amount and the gold and silver jewellery be discharged and the security taken from him be also released in his favour.

5. The petitioners who are present in Court affirm the statement of respondent No.2 and state that they will abide by the terms of settlement arrived at between the parties and assure that no such cause of grievance is given in future to respondent No.2 or any other person.

6. As per the FIR the allegations against the petitioners are of committing theft by breaking the locks and house trespass. In the process substantial amount of cash, diamond, gold and silver jewellery were taken away from the shop of respondent No.2 who is a jeweller. Respondent No.2 states that he has already received the two sums of cash i.e. ₹20 lakhs and ₹32.50 lakhs on superdari from the Court and since the said amount belong to him, the superdari bonds be discharged and he be permitted to use the cash received. Further the two FDRs for a sum of ₹80,000/- and ₹20,000/- respectively are also lying before the Trial Court, besides the five bonds of Sahara for ₹10,000/- each. Further, diamond, gold and silver items recovered were also released on superdari to the respondent No.2.

7. Since the parties have settled the matter and the respondent No.2 does not wish to pursue the above-noted FIR and the proceedings pursuant thereto, FIR No. 95/2008 under Sections 380/411/457/34 IPC registered at PS Kotwali, Delhi and the proceedings pursuant thereto are hereby quashed.

8. The learned Trial Court is directed to discharge the superdari bond filed by the respondent No.2 in respect of cash amount of ₹32.50 lakhs and ₹20 lakhs. The learned Trial Court is also directed to release the two FDRs for a sum of ₹80,000/- and ₹20,000/- besides five bonds deposited with it.

9. The investigating officer will ensure that after the quashing of this FIR the bank account of Ram Lakhan which is lying attached is released and ₹3 lakhs deposited therein are handed-over to the respondent No.2. The gold, silver and diamond items recovered during the course of investigation vide seizure memos [14th July, 2008 (two seizure memos), 15th July, 2008 (two seizure memos), 16th July, 2008 (four seizure memos), 27th July, 2008 (one seizure memo), 14th December, 2008 (one seizure memo) and 13th January, 2009 (one seizure memo)] which are on superdari with the respondent No.2 are also released in his favour and the superdari-namas are discharged and the security furnished before the Trial Court by the respondent No.2 is also directed to be released to him.

10. Parties have signed this order sheet in acknowledgment of their statements made before this Court.

11. Petition is disposed of. Order dasti.

**MUKTA GUPTA, J.**

**MARCH 08, 2017**
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