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

+ **CRL.M.C. 1023/2017**

DINESH & ANR.

..... Petitioner

Represented by: Mr. Krishna Dev Pandey, Adv.

versus

STATE & ANR.

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP
with SI Yogendra Kumar, PS
EOW.

Mr. Aditya N. Prasad, Mr.
Shivam, Advs. for R-2 with
Mr. Rajiv Behl, A.R. of R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

15.03.2017

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By the present petition the petitioners seek quashing of FIR No. 97/2009 under Sections 103/104 Trade Mark Act 1999 registered at PS Economic Offences Wing, Delhi on the complaint of Authorized Representative of Respondent No.2 alleging that the petitioners were selling fake cosmetic items using the brand name of respondent No.2.

Learned APP for the State on instructions from Investigating Officer submits that in the above-noted FIR the two petitioners are the only accused and respondent No.2 the only complainant. She further states that the infringing goods which were seized as case property are lying in malkhana

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and the same be permitted to be destroyed.

During the course of proceedings parties were referred to mediation and they arrived at a settlement before the Delhi Mediation Centre, Tis Hazari Courts on 8th September, 2016. Copy of the settlement/agreement is annexed at pages 57 to 58 of the paper book.

Respondent No.2 is represented through Rajiv Behl in whose favour a power of attorney has been executed by the Chairman of respondent No.2 copy whereof is annexed as Annexure P-6 at pages 60 to 62 of the paper book. Rajiv Behl who is present in Court and is identified by the learned counsel states that he is duly authorized and competent to depose on behalf of respondent No.2 by a power of attorney duly executed in his favour by the chairman of the company M/s. Modi-Mundipharma Beauty Products Pvt. Ltd. Rajiv Behl states that when the FIR was registered the respondent No.2 was known as M/s. Modi-Revlon Pvt. Ltd. and the name of the company has now been changed to M/s. Modi-Mundipharma Beauty Products Pvt. Ltd. since 4th August, 2016. Copy of the certificate of incorporation pursuant to the change of name has been placed on record as Annexure P-5 on page 59 of the paper book. He further states that the respondent No.2 has settled the matter with the petitioners before the Delhi Mediation Centre on 8th September, 2016 and having received the notional compensation of ₹5000/- each in cash from both the petitioners towards damages and litigation expense, respondent No.2 does not wish to pursue the above-noted FIR and the proceedings pursuant thereto. He further states that respondent No.2 has no objection if the infringing products seized as case property vide seizure memo dated 22nd July, 2009 are destroyed.

The petitioners who are present in Court and are identified by the learned counsel affirm the statement of respondent No.2 and state that they have now changed their business. To show remorse the petitioners undertake to deposit cost as well.

In view of the fact that the parties have amicably resolved their differences of their own free will, volition and without any coercion and no useful purpose will be served in continuance of the proceedings, it would be in the interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto. There is no legal impediment in quashing the FIR in question.

Consequently, FIR No. 97/2009 under Sections 103/104 Trade Mark Act 1999 registered at PS Economic Offences Wing, Delhi and proceedings pursuant thereto are hereby quashed subject to the petitioners depositing a sum of ₹10,000/- each within a period of four weeks with the Juvenile Justice Fund maintained by the Registrar General of this Court. The Investigating Officer/ SHO PS Economic Offences Wing is permitted to destroy the case property seized vide seizure memo dated 22nd July, 2009.

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

Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

MARCH 15, 2017
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