

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

% Decided on: 19th April, 2017

+ **CRL.M.C. 2744/2016**

MUKESH

..... Petitioner

Represented by: Mr. Puneet Singhal, Adv.
DHCLSC.

versus

STATE (GOVT. OF NCT OF DELHI) & ANR.

..... Respondent

Represented by: Mr. Ashok Kr. Garg, APP with
SI Karan Pal, ASI Om Prakash
PS Hauz Khas.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By the present petition the petitioner seeks quashing of FIR No.97/2014 under Sections 354D/509/352 IPC registered at PS Hauz Khas, Delhi on the complaint of respondent No.2 on the ground that parties have settled the matter.
2. Learned APP for the State on instructions submits that in the above-noted FIR the petitioner is the only accused and respondent No.2 the only complainant/ victim. The petitioner and respondent No.2 entered into a settlement before the Mediation Centre, Saket Courts on 29th January, 2015 certified copy whereof is annexed at pages 21 to 23 of the paper book.
3. The proceedings of the Mediation Centre, Saket Courts on 29th January, 2015 note the following terms of settlement arrived at between the parties:

“1. The first party states that since the second party Mukesh has accepted and has apologized to her and as she accepts the apology, she does not want this matter to proceed and intends to give one opportunity to the second party to reform as the second party is married and has other duties and responsibilities to perform.

2. The parties have agreed that in connection with the above, there will be no exchange of any compensation towards litigation.

3. The parties have agreed that as the second party has no resource, they will approach Secretary, Legal Aid South and/or Secretary, Delhi High Court Legal Committee for necessary assistance within one week from today in connection with moving of quashment petition before the Hon’ble High Court.”

4. It is agreed by the first party Ms.Muskan that she will co-operate in preparation of the quashment petition and will appear before the Hon’ble High Court of Delhi as and when called.

5. It is also agreed by the parties that they will appear before the learned referral court for ratification of their statements today itself, i.e., 29.1.2015 at 2.00 PM.

This settlement has been voluntarily arrived at between the parties with their own free will and without any force, pressure or coercion and both the parties are bound by the terms and conditions mentioned herein above.”

4. The allegation in the above-noted FIR against the petitioner are that while the complainant was coming back from her office on 23rd January, 2014 and had reached near Golden Dragon, Shah Pur Jat, Hauz Khas, New Delhi, the petitioner followed, spitted on her and made certain unpleasant utterances. Be that as it may, the parties have settled the matter. Since

respondent No.2 could not be served, directions were issued to the SHO concerned to serve the respondent No.2.

5. A status report has been handed-over by learned APP for the State which is taken on record. As per the status report duly signed by SHO PS Hauz Khas the whereabouts of respondent No.2 are not known. It is stated that inquiry was made from the residential address of respondent No.2 where it was revealed that she had stayed at the said address for a period of only two months in the year 2014 as a tenant in the said premises. Neither the landlord nor other people of the locality knew about the fresh address of the respondent No.2. Efforts were made to contact the husband of respondent No.2 whose mobile phone number was available. On being contacted the person stated that he was not the husband of respondent No.2 but was living with her in relationship and had separated from her for the last two years. Even he did not have the latest address of the respondent No.2. He stated that he met the respondent No.2 at a NGO at Zamrood Pur, Greater Kailash. Efforts were made to trace respondent No.2 at the NGOs working in the area of Zamrood Pur, Greater Kailash and even at the two NGOs namely 'Catholic Relief Service' and 'India HIV/AIDS Alliance' no clue could be obtained in respect of respondent No.2.

6. As noted above, settlement has already been arrived at between the petitioner and respondent No.2 before the Mediation Centre, Saket Courts and the State is not in a position to produce its only material prosecution witness i.e. the respondent No.2 during the course of trial. In view of the facts noted above the continuance of trial pursuant to FIR No. 97/2014 under Sections 354D/509/352 IPC registered at PS Hauz Khas would be an exercise in futurity and an abuse of the process of the Court. It would be

thus in the interest of justice to quash the above-noted FIR even in the absence of respondent No.2 appearing before this Court, making a statement to this effect and to give effect to the settlement arrived at before the Mediation Centre, as noted above.

7. Consequently, FIR No.97/2014 under Sections 354D/509/352 IPC registered at PS Hauz Khas, Delhi and the proceedings pursuant thereto are hereby quashed.

8. Petition is disposed of. Order dasti.

(MUKTA GUPTA)
JUDGE

APRIL 19, 2017
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