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

+ W.P.(CRL) 1143/2017

K M DHOUNDIYAL & ANR

..... Petitioners

Through: Mr. Manish Sharma, Advocate with Mr.
Pranay Raj Slungh & Mr. Nina Dogra, Advs.

versus

STATE & ANR

..... Respondents

Through: Mr. R.S. Kundu, ASC (Crl.) with SI Vivek
Malik, PS Vasant Kunj, South.
Mr. Manish Sangwan, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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19.05.2017

1. M/s. Arnaya Hospitality Management Services Limited, of which the second respondent is the managing director, had been inducted as lessee by the petitioners in their property described as premises bearing no.1768/1, Central School Road, behind Spinal Injury Hospital, Vasant Kunj, New Delhi by lease deed dated 1.10.2013. It is stated that the lessee made certain improvements in the said premises by arranging fittings and fixtures and thereafter set up a restaurant business. Dispute arose between the parties, *inter alia*, for non payment of rent. The dispute was taken to arbitral proceedings amongst others by OMP No.100/2015 and arbitration petition no.141/2015. It appears the arbitrator was appointed and certain directions under Section 9 of the Arbitration and Conciliation Act, 1996 came to be issued binding the lessee with the liability to pay the arrears of rental and for rental for the subsequent period.

2. There was a breach in compliance with the abovesaid directions which led to contempt petition, it being CCP (Civil) No.598/2016 being instituted.

It is during the pendency of the said contempt proceedings that the lessee through the second respondent lodged a complaint with Police Station Vasant Kunj, South on 28.10.2016 alleging offences punishable under Sections 420/468/471/34 of Indian Penal Code, 1860 (IPC) having committed by the petitioners, on which the FIR No.686/2016, under Sections 420/468/471/34 IPC was registered in Police Station Vasant Kunj, South.

3. Upon being referred to the Delhi High Court Mediation & Conciliation Centre, during the pendency of the contempt case, by order dated 24.03.2017, the parties have resolved the dispute amicably by entering into settlement agreement dated 31.03.2017. It is on that basis that the petitioners, invoking Articles 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) have come up to this court praying for the proceedings arising out of the above mentioned FIR to be quashed.

4. The matter was heard for some time on 20.04.2017 and 28.04.2017. The petitioners thereafter had come up with application (Crl.M.A.6999/2017 and 7000/2017) praying for placing on record additional facts and documents with request for exemption from filing original documents. The exemption stands granted and the documents and additional facts are taken on board.

5. The respondents have appeared on their own on the basis of advance copies. The first respondent/State is represented by Additional Standing Counsel Mr. R.S. Kundu, Advocate. He has submitted a status report prepared and signed by Station House Officer of Police Station Vasant Kunj, South. The second respondent is present in person accompanied by his counsel, who has submitted an affidavit sworn by the second respondent affirming the facts about the settlement agreement dated 31.03.2017 and his no objection to the prayer made in the petition at hand.

6. It is noted that the allegations in the FIR respecting offence under Section 468 IPC primarily concern some interpolation in the copy of the lease deed dated 01.10.2013 which had been submitted in the course of civil litigation before the court. The main allegations, however, related to the offence of cheating on the basis of alleged misrepresentation. Be that as it may, by way of settlement agreement, the parties have decided to bury the hatchet.

7. It is confirmed by the petitioners, as indeed by the second respondent through counsel, that the vacant and peaceful possession of the demised premises has already been handed over by the lessee unto the petitioner (the lessor) and that the dispute as to the claim of the lessor for the arrears of rent till the date handing over of the possession and of the the second respondent (lessess) as to its claim for the value of the fittings and fixtures which have been left behind in the demised premises has already been taken care of, the claim of both sides having been fully and finally satisfied.

8. Against the above backdrop, the dispute between being essentially civil in nature and personal to the parties, there being no likelihood of the criminal action leading to conviction, continuance of the criminal proceedings thus being in the nature of abuse of process of the court, the prayer in the petition deserves to be granted. { *Gian Singh vs. State of Punjab and Anr. (2012) 10 SCC 303* }.

9. In the facts and circumstances, FIR No.686/2016, under Sections 420/468/471/34 IPC, registered at Police Station Vasant Kunj, South and the proceedings emanating therefrom are hereby quashed.

10. The petition is disposed of accordingly.

R.K.GAUBA, J.

MAY 19, 2017/vk