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

+ **CRL.M.C. 3512/2016**

ASHWANI KUMAR UTTAM & ORS.

..... Petitioner

Represented by: Mr. Sanjeev Kumar & Mr.
Surendra Bharti, Advs. for
P-1,2,3 & Sanjeev Kr. Uttam.
Mr. S.K. Verma, Adv. for
Sushil Kr. Uttam.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondent

Represented by: Ms. Rajni Gupta, APP for
State/ R-1 with SI Ashwani, SI
Deepak PS S.P. Badli.
Mr. Deepak Jain, Adv. for R-
2,3,4,5 & Geet Madahar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

15.03.2017

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1. By the present petition, the petitioners Ashwani Kumar Uttam, his wife Neelam Uttam and Shyam Sundar seek quashing of FIR No. 921/2015 under Sections 420/467/468/471/34 IPC registered at PS Samaipur Badli, Delhi on the complaint of Arvind Kumar Uttam who has since passed away and is survived by three legal heirs i.e. the two sons Mohit Uttam and Abhishek Uttam and his wife Savita Uttam, who are respondents No.3, 4 & 5 in the present petition. Anjani Kumar Uttam, the respondent No.2 was the

other victim and has also been impleaded in the present petition.

2. The dispute between the parties relate to property bearing No. Z-239, Gali No.6, Master Mahalla, Libas Pur, Delhi admeasuring 264 sq.yds. situated in khasra No.25/22 Libas Pur, Delhi which was owned by P.L. Sharma who passed away on 29th April, 2003 without partitioning the property between the various legal heirs. Wife of Shri P.L. Sharma namely Smt. Prakash Rani passed away on 13th September, 2006. Thus the estate of P.L. Sharma on the death of his wife was inherited by six legal heirs i.e. 5 sons namely, Ashwani Kumar Uttam, Arvind Kumar Uttam, Sanjeev Kumar Uttam, Anjani Kumar Uttam and Sushil Kumar Uttam and one daughter Ms. Uran Sharma. When the settlement was arrived at between the parties, Arvind Kumar Uttam and Uran Sharma also passed away on 17th May, 2016 and 26th February, 2011 respectively and thus their legal heirs represented them during the mediation proceedings.

3. The four legal heirs of P.L. Sharma i.e. Ashwani Kumar Uttam, Sanjeev Kumar Uttam, Anjani Kumar Uttam and Sushil Kumar Uttam and the legal heirs of the two deceased legal heirs i.e. Arvind Kumar Uttam and Uran Sharma have entered into a settlement before the Delhi Mediation Centre, Rohini District Courts on 23rd February, 2017. The terms of the settlement between the parties are:

“1) It is mutually settled between the parties that all the legal heirs of late Shri Pishori Lal Sharma shall be entitled to 1/6th share each in the property bearing No.Z-239, Gali No.6, Master Mahalla, Libas Pur, Delhi measuring 264 sq. Yards out of khasra No.25/22 (hereinafter called as ‘property in question’). The details of all the legal heirs of late Shri P.L. Sharma is given as under:-

1. Shri Ashwani Kumar Uttam – son

2. Shri Arvind Kumar Uttam -son (now deceased)
3. Shri Sanjeev Kumar Uttam -son
4. Ms. Uran Sharma -Daughter (now deceased)
5. Shri Anjani Kumar Uttam -son
6. Shri Sushil Kumar Uttam -son

It is further stated that Shri Arvind Kumar Uttam has expired on 17.05.2016 and left behind three legal heirs i.e. his wife namely Smt. Savita Uttam, two sons namely Shri Abhishek Uttam and Shri Mohit Uttam. Shri Mohit Uttam has been authorized by other legal heirs of late Shri Arvind Kumar Uttam by way of special power of attorney dated 08.02.2017 to settle the present dispute on their behalf.

It is further stated that Ms. Uran Sharma has expired on 26.02.2011 and left behind three legal heirs i.e. her husband namely Shri Rajinder Kumar Sharma, one son namely Shri Geet Madhahar and one daughter Ms. Harshita Sharma. Shri Geet Madhahar has been authorized by other legal heirs of late Ms. Uran Sharma by way of special power of attorney dated 08.02.2017 to settle the present dispute on their behalf.

2) It is further agreed that Shri Ashwani Kumar Uttam has already relinquished his 1/6th share in the property in question in favour of Shri Anjani Kumar Uttam and said Shri Ashwani Kumar Uttam undertakes that he shall not raise any claim qua his share in the said property in future in any manner.

3) It is further agreed that out of his 1/6th share in the property in question, Shri Sanjeev Kuamr Uttam has already released 1/12th share in favour of Smt. Savita Uttam W/o late Shri Arvind Kumar Uttam for consideration amount of ₹4,55,000/-and he shall relinquish his remaining 1/12th share in favour of Shri Sushil Kumar Uttam within a week from today in terms of the present settlement by executing relinquishment deed before the concerned Sub Registrar, Delhi. Shri Sanjeev Kumar Uttam undertakes that he shall not raise any claim qua his share in the property in question in future in any manner

after relinquishment deed in this regard.

4) *It is further agreed that all the legal heirs of late Ms. Uran Sharma (daughter of late Shri P.L. Sharma) shall be entitled to 1/6th share in the above mentioned property.*

5) *It is further agreed between all the LRs that the Will in respect of the aforesaid property shall be treated as cancelled and null and void.*

6) *It is further agreed that Shri Ashwani Kumar Uttam and Shri Sanjeev Kumar Uttam have agreed to pay a sum of ₹7,00,000/- (Rupees Seven Lakh Only) to Shri Anjani Kumar Uttam, out of which ₹5,50,000/- (Rupees Five Lakh Fifty Thousand Only) has already been given to Shri Anjani Kumar Uttam and remaining amount of ₹1,50,000/- shall be given to him on or before 15.03.2017 and in lieu thereof, Shri Anjani Kumar Uttam, who is in possession of first floor portion of property No.1/9916, Gali No.1, West Gorakh Park, Shahdara, Delhi-110032, shall vacate the same on or before 10th May 2017 and handover the peaceful and vacant possession to Shri Ashwani Kumar Uttam and Shri Sanjeev Kumar Uttam, in terms of the present settlement.*

7) *It is further agreed that a sum of ₹8,00,000/- (Rupees Eight Lakh Only) shall be paid by Shri Ashwani Kumar Uttam and Shri Sanjeev Kumar Uttam to Shri Sushil Kumar Uttam by way of two post dated cheques i.e. one cheque dated 25.08.2017 for ₹4,00,000/- drawn on Central Bank of India, Shahdara, Delhi by Shri Ashwani Kumar Uttam and another cheque dated 25.08.2017 of ₹4,00,000/- drawn on Syndicate Bank, Pasarvnath Building, Shahdara, Delhi by Shri Sanjeev Kumar Uttam. Both the PDCs shall be handed over to Shri Sushil Kumar Uttam on 25.02.2017. In lieu thereof, Shri Sushil Kumar Uttam, who is in possession of one room at Mezzanine Floor of property No.1/9916, Gali No.1, West Gorakh Park, Shahdara, Delhi-110032, shall vacate the same and handover the peaceful and vacant possession of the same to Shri Ashwani Kumar Uttam and Shri Sanjeev Kumar Uttam after encashment of the both post dated cheques.*

8) *It is further agreed that all the parties shall cooperate*

each other in quashing of the FIR No.921/15, PS S.P. Badli under Sections 420/467/468/471/34 IPC before Hon'ble High Court of Delhi and shall appear and give necessary statements/affidavit, if required.

9) It is further agreed that Shri Anjani Kumar Uttam (plaintiff in connected case) and other legal heirs of late Shri Pishori Lal Sharma shall make necessary statements before the Court concerned of connected case on date fixed i.e. 22.03.2017 for passing of consent decree in terms of the present settlement.

10) Once the settlement is taken to its logical conclusion, parties would be left with no grievances whatsoever against each other and will not bring any further case regarding the subject matter of the dispute.

11) Once the settlement is taken to its logical conclusion, they would have no claim whatsoever regarding the transaction in question against each other and would withdraw all their respective claims etc. whether known or not known to the other party.

12) Parties will meet/bear their own cost of litigation.”

4. Legal heir of Arvind Kumar Uttam, Mohit Uttam (respondent No.3) in the present petition who is present in Court and is identified by the learned counsel, on his behalf and on behalf of his mother Smt. Savita and brother Abhishek Uttam states that he is authorized to make statement on behalf of Savita Uttam and Abhishek Uttam and that being the legal heirs of Arvind Kumar Uttam they do not wish to pursue the above-noted FIR and the proceedings pursuant thereto in view of the settlement arrived at between the parties on 23rd February, 2017 which has been acted upon. Ashwani Kumar Uttam, Sanjeev Kumar Uttam, Anjani Kumar Uttam, Sushil Kumar Uttam and Mr. Geet Madhahar S/o Ms. Uran Sharma on his behalf and on behalf of two other legal heirs of Ms. Uran Sharma, who are present in

Court and are identified by the learned counsels pray that the above-noted FIR and the proceedings pursuant thereto be quashed and that they will abide by the terms of settlement. Besides Ashwani Kumar Uttam, the two other persons arrayed as accused in the above-noted FIR are Neelam Uttam w/o Ashwani Kumar Uttam and Shyam Sunder who are also present in Court and identified by the learned counsel. They affirm the statement of Mohit Uttam and state that they will abide by the terms of settlement.

5. In view of the comprehensive settlement arrived at between the parties and as all the legal heirs of P.L. Sharma are duly represented before this Court and have entered into a settlement of their own free will, volition and without any coercion and there is no legal impediment in quashing the FIR, this Court deems it fit to quash the above-noted FIR.

6. Consequently, FIR No. 921/2015 under Sections 420/467/468/471/34 IPC registered at PS Samaipur Badli, Delhi and proceedings pursuant thereto are hereby quashed.

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

8. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

MARCH 15, 2017
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