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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4416/2017

MOHAN LAL & ORS

..... Petitioners

Through: Mr.B.L.Madhukar, Advocate with
petitioners in person.

versus

STATE (NCT OF DELHI) & ORS

..... Respondents

Through: Mr.Izhar Ahmad, APP for State with
SI Kamal Sharma Police Station Patel
Nagar.
Mr.M.K.Saroja, Adv for R-2 and R-3
with respondents No.2 and 3 in
person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.12.2017

In terms of proceedings dated 21.11.2017, the State has submitted a verification report as submitted by the SHO Police Station Patel Nagar to the effect that a settlement has been arrived at between the parties and their statement to that effect has also been recorded during the course of investigation conducted which submissions have been placed on record along with the status report.

The Investigating Officer of the case has also conducted the identification in relation to the petitioners and the respondents No.2 and 3.

The Investigating Officer in his statement before the Court has

also identified the petitioners No.1 to 4 and the respondents No.3 the injured, who is present in the Court and the respondent No.2 the complainant of the FIR.

The respondents No.2 and 3 in their statements on oath as CW-2 and CW-3 they have no opposition to the petition CrI.M.C. No.4416/2017 filed by the petitioners seeking quashing of the FIR in view of the Memorandum of Understanding dated 27.10.2017 (EX.CW-2/B) executed between them which they both stated that they have signed the Memorandum of Understanding voluntarily of their own accord without any duress, pressure or coercion from any quarter. Both of them have also affirmed having sworn their affidavits EX.CW-2/C and EX.CW-3/B voluntarily of their own accord without any duress, pressure or coercion from any quarter. They have further stated that they do not seek any further action against all the petitioners and also do not oppose the prayer made by the petitioners seeking quashing of the FIR. *Inter alia*, reliance has been placed on behalf of the petitioners on the testimonies of the respondents No.2 and 3 recorded therein before the learned Trial Court during the course of the trial of respondent No.2 recorded as PW-1 on 30.5.2017 and of respondent No.3 herein recorded on 12.9.2017 in Sessions Case No.57777/16 whereby both the witnesses, i.e., PW-1 Santosh and PW2 Smt.Mukesh have categorically stated that they do not want any action against the petitioners. Though the certified copy of the testimony in Sessions Case No.57777/16 before the learned Trial Court of the Additional Sessions Judge-04 (West), New Delhi states the FIR 222/13, Police Station Kirti Nagar, the

certified copy of the proceeding sheet dated 20.4.2017 in relation to FIR No.222/13 in case titled Mohan & Others, SC No.57777/16 indicates that the matter has been renotified on 30.05.2017 qua FIR No.222/13, Police Station Patel Nagar and accordingly Police Station Kirti Nagar on the order sheet dated 30.5.2017 is a typographical error in the proceedings of the learned Additional Sessions Judge-04 (West) Delhi.

Learned APP for the State in the circumstances of the case and in view of the settlement arrived at between the petitioners and the respondents No.2 and 3 does not oppose the prayer made on behalf of the petitioners seeking quashing of the FIR.

Taking into account the statement made by the respondents No.2 and 3 to the effect that the parties have agreed to live peacefully and in view of the amicable settlement and taking into account that there are no previous adverse antecedents against the petitioners No.1 to 4, so that peace and harmony between the petitioners and the respondents No.2 and 3, who apparently live in the same locality of Patel Nagar, is restored and maintained as testimonies of PW-1 and PW-2 recorded before the learned Trial Court in Sessions Case No.57777/16 indicate that there is no likelihood of the conviction of the petitioners No.1 to 4 in the circumstances of the case, in view thereof, though the offence punishable under Section 308 IPC, 1860, is not compoundable, in the circumstances of the case it is considered appropriate to allow the prayer made by the petitioners seeking quashing of the FIR No.222/2013, under Sections 308/452/323/427/34 Indian Penal Code, 1860, Police Station Patel

Nagar and all consequential proceedings emanating therefrom are quashed, in view of the observation in verdict of the Supreme Court in ***Gian Singh vs. State of Punjab & Another***, (2012) 10 SCC 303, to the effect : -

*“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. **However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each***

case will depend on its own facts and no hard-and-fast category can be prescribed.” [Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]”

(emphasis supplied)

it is thus considered appropriate in the interest of justice that the prayer made by the petitioners i.e. the petitioner no. 1 Mohan Lal, the petitioner no. 2 Karan, the petitioner no. 3 Bharat and the petitioner no. 4 Shankar, seeking quashing of the FIR No.222/2013, under Sections 308/452/323/427/34 Indian Penal Code, 1860, Police Station Patel Nagar against them and all consequential proceedings emanating therefrom is allowed which is thus accordingly allowed, and the FIR No.222/2013, under Sections 308/452/323/427/34 Indian Penal Code, 1860, Police Station Patel Nagar and all consequential proceedings emanating therefore are quashed.

A copy of this order be sent to the learned Additional Sessions Judge-04 (West) to rectify the records of the learned Trial Court in State Case No.57777/16 qua proceedings of the testimony of PW-1 dated 30.5.2017 mentioning that the FIR No.222/13 as related to being of Police Station Patel Nagar and not Kirti Nagar.

A copy of the order be given *dasti*.

ANU MALHOTRA, J

DECEMBER 13, 2017/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 8

Crl. M.C. 4416/2017

MOHAN LAL & ORS. Vs. STATE & ANR.

13.12.2017

**CW-1 SI KAMAL SHARMA POLICE STATION PATEL NAGAR
ON S.A.**

I identify Mohan Lal, Karan, Bharat and Shankar, i.e., petitioners No.1 to 4, arrayed as the accused and Santosh Kumar and Smt. Mukesh Rani, i.e., the respondents No.2 and 3 as also the complainant/injured and the other injured in relation to the FIR No.222/2013, under Sections 308/452/323/427/34 Indian Penal Code, 1860, Police Station Patel Nagar present in the Court today.

RO & AC

13.12.2017

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 8

Crl. M.C. 4416/2017

MOHAN LAL & ORS. Vs. STATE & ANR.

13.12.2017

CW-2 SANTOSH KUMAR S/O BADRI PRASAD AGED 53 YEARS

R/O T-627/A, BALJEET NAGAR, DELHI

ON S.A.

I have brought my original identity card, i.e., Aadhar Card bearing bearing No.968983668741, a photocopy of the same is Ex.CW-2/A (original seen & returned).

A settlement has since been arrived at between me and the petitioners No.1 to 4, *namely*, Mohan Lal, Karan, Bharat and Shankar and I do not oppose the prayer made by the petitioners No.1 to 4 seeking quashing of the FIR No.222/2013, under Sections 308/452/323/427/34 Indian Penal Code, 1860, Police Station Patel Nagar as it has been agreed between us that we shall live peacefully. I do not seek that the petitioners No.1 to 4, *namely*, Mohan Lal, Karan, Bharat and Shankar to be punished in relation to the said FIR. The Memorandum of Understanding dated 27.10.2017 bears my signatures thereon at point 'A' thereof on each page on Ex.CW-2/B which I have signed voluntarily of my own accord and without any duress or coercion from any quarter. My affidavit annexed to the petition also bears my signatures at points A and B on Ex.Cw-2/C. I do not seek any action against the petitioners qua the injuries sustained by me.

RO & AC

13.12.2017

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 8

CrI. M.C. 4416/2017

MOHAN LAL & ORS. Vs. STATE & ANR.

13.12.2017

CW-3 MUKESH RANI W/O SANTOSH KUMAR AGED 53 YEARS

R/O T-627/A, BALJEET NAGAR, DELHI

ON S.A.

I have brought my original identity card, i.e., Aadhar Card bearing No.959229082067, a photocopy of the same is Ex.CW-3/A (original seen & returned).

The Memorandum of Understanding dated 27.10.2017 bears my signatures thereon at point 'B' thereof on each page on Ex.CW-2/B.. My affidavit annexed to the petition also bears my signatures at points A and B on Ex.CW-3/B which I have signed voluntarily of my own accord and without any duress or coercion from any quarter in view of the settlement arrived at between me and the petitioners No.1 to 4, *namely*, Mohan Lal, Karan, Bharat and Shankar. I do not oppose the prayer made by the petitioners No.1 to 4 seeking quashing of the FIR No.222/2013, under Sections 308/452/323/427/34 Indian Penal Code, 1860, Police Station Patel Nagar as it has been agreed between us that we shall live peacefully. I do not seek that the petitioners No.1 to 4, *namely*, Mohan Lal, Karan, Bharat and Shankar be punished in relation to the said FIR.

RO & AC

13.12.2017

ANU MALHOTRA, J