$~36

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

\+ CRL.M.C. 4484/2017

RAJ KUMAR & ORS ..... Petitioners

Through: Ms.Neha Mishra, Advocate with petitioners No.1 to 4 in person.

versus

THE STATE GOVT OF NCT OF DELHI & ANR ..... Respondent

Through: Mr. Kamal Kr. Ghei, APP for State with SI Satender Singh, PS Kashmere Gate
Respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

O R D E R

% 21.12.2017

Crl.M.A. No.17938/2017 (Exemption)

Exemption allowed, subject to just exceptions.

Crl.M.C. No.4484/2017

Vide the present petition, the petitioners seek quashing of the FIR No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate submitting to the effect that a settlement has been arrived at between the petitioners and the respondent No.2 and no useful purpose would be served by continuation of the proceedings.

The Investigating Officer of the case is present in Court and has identified the petitioners No.1 to 4 and the respondent No.2 present in the Court.

Learned APP for the State, in the circumstances of the case as putforth in the petition, does not oppose the prayer made by the petitioners seeking quashing of the FIR in question.

The respondent No.2 on her examination by the Court has testified having signed her affidavit EX.CW-2/A dated 19.8.2017 voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further testified to the effect that the FIR had been registered on 9.9.2003 vide order dated 23.8.2003 passed by the learned Metropolitan Magistrate pending for the last 14 years. She has further stated to the effect that he petitioners No.1 to 4 have since tendered an unconditional apology and that no useful purpose would be served as the Civil Courts are already adjudicating her rights and that her rights are protected by the Civil Court in the two Civil suits filed by her which are now stated to be pending in the Saket Courts in relation to the properties bearing Nos. Q-29, Model Town, Delhi-9 and W-137, Greater Kailash-II, New Delhi. She has further testified to the effect that in the Probate Petition No.16/2000 (New No.46/2006) in respect of the last and final Will of her late father Sh. Harbhagwan dated 9.9.1997 the probate was granted by the competent Probate Court in her favour and her sisters and the Letter of Administaration was granted on 31.1.2009 and that probate has attained finality and no appeal was filed against the probate order and that the petitioners have no right, title or interest in the property No. Q-29, Model Town, Delhi-9 and W-137, Greater Kailash-II of respondent No.2 and her sisters. She has already taken civil action against the petitioners and others before the Civil Court for

cancellation of the sale deed and grant of injunction qua vacant plots bearing Nos. Q-29, Model town, Delhi and W-137, Greater Kailash-II, New Delhi and her rights have been protected by the Civil Court.

The petitioner No.1 on examination by the Court as CW-3 has also affirmed the aspect of the probate having been granted in probate petition No.16/2000 (New No.46/2006) in favour of the respondent No.2 and his other sisters and also affirmed the aspect of having not filed any appeal against the said probate order.

The respondent No.2 has also affirmed that the petitioner No.1 is her brother.

Taking into account the factum that the petitioner No.1 and the respondent No.2 are related as brother and sister and the aspect that there is civil litigation already in progress in which the respondent No.2 has submitted already to the effect that her rights are protected in relation thereto and the probate having been granted in favour of the reposndent No.2 and her sisters which is also affirmed and ratified by the petitioner No.1, the brother of the respondent No.2, present in Court, and taking into account the non-opposition on behalf of the State, the prayer made by the petitioners seeking quashing of the FIR No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate against the petitioners No.1 to 4, *namely*, Raj Kumar, Anil Sharma @ Anil Painter, Kamal Kishore, and Amit Pahwa, and all proceedings emanating therefrom is allowed and thus FIR

No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate against the petitioners No.1 to 4, *namely*, Raj Kumar, Anil Sharma @ Anil Painter, Kamal Kishore, and Amit Pahwa, and all proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 21, 2017/sv

IN THE HIGH COURT OF DELHI: NEW DELHI
Item No. 36
Crl. M.C. 4484/2017
RAJ KUMAR & ORS. Vs. STATE & ANR.
21.12.2017
CW-3 RAJ KUMAR S/O LATE HARBHAGWAN, AGE 55 YEARS
R/O G-168, PREM NAGAR, NAJAFGARH, DELHI.
ON S.A.

I affirm that in probate petition 16/2000 (New No.46/2006), the probate has been granted vide order dated 14.1.2009 in favour of the respondent No.2 and my other sisters and that I have filed no appeal against the said probate order.

RO & AC **ANU MALHOTRA, J**
21.12.2017

IN THE HIGH COURT OF DELHI: NEW DELHI
Item No. 36
Crl. M.C. 4484/2017
RAJ KUMAR & ORS. Vs. STATE & ANR.
21.12.2017
CW-2 MS.INDRA D/O LATE HARBHAGWAN, AGE 57 YEARS R/O 9908 NAWAB GANJ, AZAD MARKET DELHI.
ON S.A.

I am a practicing Advocate.

My affidavit annexed to the petition bears my signatures thereon at points A and B on Ex.CW-2/A which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

Proceedings in relation to the FIR No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate were registered on my complaint dated 9.9.2003 vide order dated 23.8.2003, of the concerned Metropolitan Magistrate, Delhi pending for the last 14 years. The petitioners have tendered unconditional apology to me and I had also filed a probate petition No.16/2000 (New No.46/2006) in respect of the last and final Will dated 9.9.1997 of my late father and the probate was granted to me and my sisters vide order dated 14.1.2009 and the Letter of Administration was granted on 31.1.2012. Further more, there are two civil suits pending now at the Saket Courts in relation to the properties bearing No. Q-29, Model Town, Delhi-9 and W-137, Greater Kailash-II, New Delhi against the petitioners which I am pursuing and thus my rights are protected in the civil proceedings. The petitioners have acknowledged and ratified the probate in my favour and the other sisters. Thus I have no opposition to the

prayer made by the petitioners seeking quashing of the FIR No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate. I have so stated voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC **ANU MALHOTRA, J**
21.12.2017

IN THE HIGH COURT OF DELHI: NEW DELHI
Item No. 36
Crl. M.C. 4484/2017
RAJ KUMAR & ORS. Vs. STATE & ANR.
21.12.2017
CW-1 SI SATENDER SINGH POLICE STATION KASHMERE GATE ON S.A.

I identify the petitioners No.1 to 4, *namely*, Raj Kumar, Anil Sharma @ Anil Painter, Kamal Kishore, and Amit Pahwa, Present in the Court today and as being the accused and the respondent No.2 Ms.Indra, the complainant of the FIR No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate present in the Court today. The proof of identity of the Driving Licence of the petitioner No.1 bearing No.DL-09199870064919, Aadhar Card of the Petitioner No.2 892766591586, and Petitioner No.3 bearing No.558219158117 and petitioner No.4 bearing No.816462039103 have been produced. The photocopy of the Driving Licence of the petitioner No.1 and the Aadhar cards of the petitioners No.to 2 to 4 are Ex.CW-1/A, Ex.CW-1/B, Ex.CW-1/C and Ex.CW1/D and the photocopy of the Identity Card issued by the Bar Council of Delhi of the respondent No.2 bearing No. 6380/I/77 being Ex.CW-1/E respectively (Original seen & returned).

Apart from the petitioners No.1 to 4, no other person/persons is/are arrayed as the accused in relation to the present FIR No.429/2003, under Sections 423/ 427/ 463/ 464/ 466/ 467/ 468/ 470/ 471/ 474/503/192/196/199/506/120-A/120-B read with Sections 34/149 of the Indian Penal Code, 1860 Police Station Kashmere Gate.

RO & AC **ANU MALHOTRA, J**