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

+ **CRL.M.C. 459/2018 & CRL.M.A. 1747/2018**

UDAY BHAN

..... Petitioner

Through Sh. Ram Lal, Adv. with petitioner in person.

versus

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

Through Mr. Panna Lal Sharma, APP for State with ASI Chaman Prakash PS Subzi Mandi Railway Station.

Mr. Subhash Chander, Adv. for R2 with R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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30.01.2018

Vide the present petition, the petitioner Uday Bhan s/o Late Sh. Vidya Prasad seeks quashing of the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties due to the intervention of the respectables.

The Investigating Officer of the case has identified the petitioner Uday Bhan s/o Late Sh. Vidya Prasad as being the sole accused in relation to the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Smt. Krishna Kumari w/o Late Sh. Ram Kumar i.e. the complainant of the FIR No. 73/17, registered at PS Subzi Mandi Railway

Station, under Sections 323/324/341 of the Indian Penal Code, 1860 present today in the Court. Photocopies of the proof of identity of the petitioner and the respondent no. 2 in the form of their Aadhar cards are on the record, which are Ex.CW1/A and Ex.CW1/B respectively, originals of which have been seen and returned.

The respondent no. 2 Smt. Krishna Kumari w/o Late Sh. Ram Kumar i.e. the complainant of the said FIR is present today in the Court and has been examined by the Court and she has testified that her affidavit annexed to the petition bears her signatures thereon at points-A and B on Ex.CW2/A, which she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter. The respondent no. 2 has testified to the effect that she had studied till 12th and is working as a booking clerk at the Subzi Mandi Railway Station. *Inter alia* she has testified to the effect that the petitioner has apologized for injuries inflicted upon her in relation to which the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 was registered, which is also so affirmed by the petitioner before the Court. The respondent no. 2 also testified to the effect that due to the intervention of the respectable members of the society, the matter between the parties has been settled and thus she does not oppose the prayer made by the petitioner seeking quashing of the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 nor does she want the petitioner to be punished in relation thereto.

Learned APP for the State also in the circumstances of the case does not oppose the prayer made by the petitioner seeking quashing of the FIR

No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 in view of the settlement arrived at between the parties.

The respondent no. 2 on examination by the Court has stated that he undertakes to abide by the terms and conditions of the said compromise deed Ex.CW2/B.

In view of the deposition of the respondent no. 2 and the non-opposition on behalf of the State and also the unconditional apology tendered by the petitioner to the respondent no. 2 as reflected in Ex.CW2/B and in view of the submissions that both the petitioner and the respondent no. 2 are government employees and colleagues at the Subzi Mandi Railway Station, there appears no reason to disbelieve the said statement made by the respondent no. 2 that she has arrived at a settlement voluntarily of their own accord without any duress or coercion from any quarter and thus to maintain peace and harmony between the parties, in view of the observations in the verdict of the Hon'ble 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 petitioner seeking quashing of the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 73/17, registered at PS Subzi

Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner Uday Bhan s/o Late Sh. Vidya Prasad are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 30, 2018/MK

79

CRL.M.C. 459/2018

UDAY BHAN versus THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : ASI Chaman Prakash PS Subzi Mandi Railway Station, Delhi.

ON S.A.

I identify the petitioner Uday Bhan s/o Late Sh. Vidya Prasad as being the sole accused in relation to the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 registered on the complaint of the complainant. I also identify the respondent no. 2 Smt. Krishna Kumari w/o Late Sh. Ram Kumar i.e. the complainant of the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 present today in the Court. Photocopies of the proof of identity of the petitioner and the respondent no. 2 in the form of their Aadhar cards are on the record, which are Ex.CW1/A and Ex.CW1/B respectively (originals of which have been seen and returned).

ANU MALHOTRA, J

RO & AC

JANUARY 30, 2018/MK

Statement of CW2 : Smt. Krishna Kumari w/o Late Sh. Ram Kumar, aged 53 years r/o Quarter No. 177/12, Railway Colony, Kishanganj, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A. The compromise deed dated 04.01.2018 also bears my signature thereon at points-A on each page on Ex.CW2/B, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. Due to the intervention of the respectables, the matter between me and the petitioner has been settled and the petitioner has unconditionally apologized for the injuries inflicted upon me in relation to which the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 was registered. I thus do not oppose the prayer made by the petitioner seeking quashing of the FIR No. 73/17, registered at PS Subzi Mandi Railway Station, under Sections 323/324/341 of the Indian Penal Code, 1860 nor do I want the petitioner be punished in relation thereto as both of us are government servants. I have studied till 12th and am working as a booking clerk at the Subzi Mandi Railway Station from 2007. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC

JANUARY 30, 2018/MK

79

CRL.M.C. 459/2018

UDAY BHAN versus THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW3 : Uday Bhan s/o Late Sh. Vidya Prasad, aged 56 years r/o H. No. T-51/7, Railway Colony, Subzi Mandi, Delhi - 110007 ON S.A.

The compromise deed dated 04.01.2018 bears my signature thereon at points-B on each page on Ex.CW2/B, which I have signed voluntarily. I undertake to abide by the terms and conditions of the said settlement and I have apologized to the respondent no. 2 for the injuries inflicted upon her.

ANU MALHOTRA, J

**RO & AC
JANUARY 30, 2018/MK**