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

+ **CRL.M.C. 1863/2018**

JAI PAL & ANR

..... Petitioner

Through: Mr. Manish Sangwan with Mr. Ramit
Sherawat, Advocates

versus

STATE OF NCT DELHI & ORS

..... Respondent

Through: Mr. Gulshan Gupta with Mr. Ankit
Tyagi, Advocates
Mr. Sanjeev Sabharwal, APP for the
State.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.04.2018

CRL. M.A. 6660/2018

This is an application seeking exemption from filing of the certified copies of the annexures. The application is allowed subject to just exceptions.

CRL.M.C. 1863/2018

Vide the present petition, the petitioners seek quashing of the FIR No.476/2014, PS Dabri under Sections 356/379/34 and under Section 201/34 of the Indian Penal Code, 1860 having been added in the chargesheet, in view of the settlement arrived at between respondent no.2 and the petitioners and all the disputes between them having been amicably settled. The I.O. of the case is present in Court

and identified the petitioner no. 1 Sh. Jai Pal s/o Sh. Jage Ram, the petitioner no. 2 Sh. Krishan Pal @ Sardar s/o Sh. Jage Ram as being the two accused persons arrayed in the FIR No.476/2014, PS Dabri under Sections 356/379/34 of the Indian Penal Code, 1860 and Shri Raju Divakar @ Jograj Divakar complainant thereof. The proof of identity of the petitioners no. 1 and 2 and of the respondent no. 2 in the form of their Aadhar Cards, photocopies of which are on record as Ex.CW1/A to Ex.CW1/C respectively. (originals seen and returned). The respondent No.2 states that he is a permanent resident of Bareilly and his Aadhar Card has been issued from Bareilly.

Inter alia it has been submitted on behalf of the petitioners as also indicated from the chargesheet on record EX.CW2/D and testified by the I.O. that a settlement between the petitioners and the respondent No.2 has been arrived at even before the institution of the chargesheet. The chargesheet itself indicates that even before the filing of the chargesheet the disputes were settled between the parties but despite it having been submitted by the parties that a settlement had been arrived at and they had not till then sought the quashing of the FIR and that the provision of Section 201 of the Indian Penal Code, 1860 had been added.

The respondent No.2 in his deposition on oath has affirmed that he has sworn his affidavit Ex.CW2/B voluntarily of his own accord in respect of the averments made in the petition and testified to having signed the settlement dated 2.4.2018 Ex.CW2/A voluntarily of his own accord. As per the averments made in the FIR, it has been

registered in relation to an allegation of a sum of Rs.4800/- having been snatched by the petitioners who are indicated to have fled away on a scooter from the spot. As per the FIR itself also there was some conversation between the petitioners and the respondent No.2 in relation to sale of ice-cream. The respondent No.2 in his deposition on oath has testified to the effect that there were some talks in relating to some financial transaction between the parties as a consequence of which the FIR was registered and that the matter between the petitioners and the respondent No.2 has since been resolved. As per the averments made in the chargesheet Section 201 of the Indian Penal Code, 1860 is indicated to have been added as the scooter on which the petitioners fled away has not been deposited in the malakhana of the police station concerned. The said scooter apparently, even as per the averments made in the FIR does not belong to the petitioners.

Taking into account the factum that a settlement has been arrived at between the parties and the scope of conviction is wholly bleak, on behalf of the State there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in view of the settlement between the parties. There appears no reason to disbelieve the statement made by the respondent No.2 that he has arrived at a settlement with the petitioners voluntarily of his own accord which factum is also indicated in the charge sheet and thus it is considered appropriate to allow the prayer made by the petitioners seeking

quashing of the FIR No. No.476/2014, PS Dabri under Sections 356/379/34 and under Section 201/34 of the Indian Penal Code, 1860 having been added in the charge sheet and all the consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 13, 2018
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JAI PAL & ANR

v. STATE & ANR

Statement of CW1 : Investigating Officer SI Devender, PS Dabri.

ON S.A.

I identify the petitioner no. 1 Sh. Jai Pal s/o Sh. Jage Ram, the petitioner no. 2 Sh. Krishan Pal @ Sardar s/o Sh. Jage Ram as being the two accused persons arrayed in the FIR No.476/2014, PS Dabri under Sections 356/379/34 of the Indian Penal Code, 1860. I also identify the complainant of the said FIR, respondent no. 2 who is present in Court today. The charge sheet having also been filed under Section 201 of the Indian Penal Code, 1860. It is correct that there is a statement made in the charge sheet that the petitioners and respondent no. 2 had settled their disputes, a certified copy of which is on record as CW1/D. The proof of identity of the petitioners no. 1 and 2 and of the respondent no. 2 in the form of their Aadhar Cards, photocopies of which are on record as Ex.CW1/A to Ex.CW1/C respectively. (originals seen and returned).

RO & AC
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Statement of CW2 : Raju Divakar @ Jograj Divakar, r/o previously at C-4, Sitapuri Part-1, New Delhi-110059, now r/o House No. 12, Chanakya Place, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of FIR 476/2014 PS Dabri under Sections 356/379/34 of the Indian Penal Code, 1860 and Sections 201/34 of the Indian Penal Code, 1860 as per the charge sheet, nor do I want the petitioners to be punished in relation thereto. In as much as there was a dispute between me and the petitioners on a financial transaction which has since been resolved. The memorandum of settlement EXCW2/A dated 2.4.2018 arrived at between me and the petitioners bears my signatures at point A thereon. I have signed the memorandum of understanding voluntarily. My affidavit annexed to the petition EXCW2/B bears my signatures at point A and B. I have studied till standard two and I am selling vegetables since the last two years. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

**RO & AC
APRIL 13, 2018/Nk**

ANU MALHOTRA, J