

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

+ Crl.M.C.No. 3690/2016

Judgment reserved on : 11th January, 2018

Date of decision : 30th January, 2018

MRS.POONAM KHANNA Petitioner

Through: Mr.Yakesh Anand & Ms.
Sonam Anand, Advocate

versus

STATE & ORS RespondentS

Through: Mr. Raghuvinder Varma, APP
for State with Inspector Ajay
Gupta, EOW, Delhi Police.
Mr.Mandeep Singh Vinaik &
Mr. Deepak Bashta, Adv for
R-3

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. Vide the present petition, the petitioner, Mrs. Poonam Khanna, W/o Late Sh. Pradeep Kumar Khanna seeks invocation of powers of this Court under Section 482 Code of Criminal Procedure, 1973 seeking partial quashing of the FIR No.11/2011, dated 15.2.2011, under Sections 403/404/406/409/420/120-B Indian Penal Code, 1860, Police Station Tuglak Road, New Delhi and all proceedings emanating therefrom against her and seeks that her name be dropped from the list of accused and that the proceedings be continued against other accused persons/companies.

2. The facts put forth through the petition are to the effect that the petitioner's late husband, who died on 12.1.2002 was the owner of the property bearing No.21, Aurangzeb Road, New Delhi, which comprised of a plot of land measuring 0.91 acres-4418 Square Yards taken on perpetual lease from the Land & Development Office, New Delhi with a double storied building and an outhouse constructed thereupon in relation to which her late husband Sh.Pradeep Kumar Khanna during his lifetime had entered into an agreement to sell with one Shri Avtar Singh, partner of M/s Aero Shoes, New Delhi with respect to the sale of the said property which at that time was under the tenancy and in possession of the Sudan Embassy. It has further been submitted through the petition that after discussion, an agreement to sell dated 13.9.88 was executed between the late Shri Pradeep Kumar Khanna and one Shri Avtar Singh through his company M/s Tosh Apartment Private Limited (arrayed as respondent No.3 to the present petition) and under the agreement to sell a sum of Rs.25,00,000/- was paid by Sh.Avtar Singh, the authorized signatory of M/s Tosh Apartment Private Limited by cheque and some amounts for and on his behalf to some other person. The Sudan Embassy is stated to have vacated the property No.21 Aurangzeb Road, New Delhi on 12.5.1992, on which date it is alleged that the possession of the said property was taken by Mr. L.K.Kaul (since deceased) for and on behalf of Late Pradeep Kumar Khanna in an illegal manner as a consequence of which there were disputes which arose between Pradeep Kumar Khanna and M/s Tosh Apartment Private Limited with respect to the sale of the said property and the respondent No.3

arrayed to the present petition, i.e. M/s Tosh Apartment Private Limited filed a suit for specific performance of the agreement to sell dated 13.9.1988 and for damages and injunction in this Court bearing CS(OS) No. 425/1993 against late Pradeep Kumar Khanna and others which suit was contested by Pradeep Kumar Khanna during his lifetime. Vide order dated 18.2.1993 in CS(OS) No.425/1993, this Court passed an interim order restraining Pradeep Kumar Khanna and others from transferring, alienating or part with the possession in any manner or creating any third party rights in respect of the said suit property.

3. As per the averments made in the petition, during the pendency of the CS(OS) No.425/93, Pradeep Kumar Khanna is alleged to have entered into six agreements to sell dated 19.2.1997 with M/s Vidhur Impex Traders (P) Ltd. and five other companies with respect to the suit property no. 21, Aurangzeb Road, New Delhi in violation of the order of injunction of this Court and on 30.5.1997 Pradeep Kumar Khanna is alleged to have executed and registered six sale deeds and the said six companies further executed an agreement to sell in favour of one M/s Bhagwati Developers (P) Ltd on receiving some consideration.

4. Suit No.161/99 is stated to have been filed before this Court by late Pradeep Kumar Khanna during his lifetime challenging the said alleged six sale deeds which suit is stated to be pending. Further litigations also started and were contested by late Pradeep Kumar Khanna in this Court and before the Supreme Court with various contesting parties.

5. It is further stated through the petition that the respondent No.3 on learning of the subsequent sale transactions of the suit property by late Sh. Pradeep Kumar Khanna with six companies, filed an application bearing No.625/2001 in CS(OS) No.425/1993 seeking a restraint against Pradeep Kumar Khanna and L.L.Kaul from handing over possession of the suit property to any third person and the six purchaser companies and that the subsequent purchaser be restrained from taking forcible possession of the suit property. Through the application M/s Vidhur Impex Traders (P) Ltd. and five other companies were made respondents No.4 to 9 in the said interim application and the respondent No.3 to the present petition also filed an application before this Court for appointment of a receiver and for issuance of contempt and vide order dated 22.1.2001 in CS(OS) No.425/1993, this Court restrained the defendants No.1 and 3 in Suit from delivering possession of the suit property to the six purchaser companies and the subsequent purchaser.

6. The said order dated 22.1.2001 was challenged by M/s Bhagwati Developers (P) Ltd. in an appeal titled M/s Bhagwati Developers (P) Ltd. v. M/s Tosh Apartment Private Limited (i.e.respondent No.3) which was dismissed by the Division Bench of this Court on 2.3.2001 with liberty granted to approach the learned Single Judge to seek redressal or appropriate orders and thus M/s Bhagwati Developers (P) Ltd. filed an application before the learned Single Judge for modification of the order dated 22.1.2001. The purchaser companies i.e. M/s Vidhur Impex Traders (P) Ltd. and five other companies also filed an application bearing IA No. 1621/2008

under Order 1 Rule 10 of CPC seeking impleadment in CS(OS) No. 425/1993 filed by the respondent No.3 which application was rejected vide order dated 26.5.1998 and vide order dated 3.9.97 the application filed by M/s Bhagwati Developers (P) Ltd. was also dismissed and a receiver for the property was appointed. Appeals filed before the Division Bench of this Court by M/s Vidhur Impex Traders (P) Ltd. and other companies and by M/s Bhagwati Developers (P) Ltd. were dismissed vide orders dated 3.9.2007 and 26.5.2008. The SLPs filed in the Supreme Court by M/s Vidhur Impex Traders (P) Ltd. and others was dismissed vide judgment dated 21.8.2012 and order of this Court appointing the receiver with respect to the said property was upheld. The review applications filed by the six purchaser companies and subsequent purchasers against the order dated 21.8.2012 were also dismissed by the Supreme Court. Suits, counter suits, appeals are stated to have then been filed by the parties before this Court and before the Supreme Court in relation to the said property No.21, Aurangzeb Road, New Delhi.

7. Respondent No.3 arrayed to the present petition, i.e. M/s Tosh Apartment Private Limited filed a police complaint against 14 persons including the petitioner herein, i.e., Mrs. Poonam Khanna with respect to the property No.21, Aurangzeb Road, New Delhi but no FIR was registered by the police on the basis of this complaint and thereafter respondent No.3 herein filed an application to the Court of Metropolitan Magistrate, New Delhi under Section 156 (3) Cr.P.C. against the accused persons named in the complaint seeking that they be summoned, tried and punished and vide order dated 10.2.2011, the

Metropolitan Magistrate concerned directed the registration of the FIR on the basis of the complaint and thus the FIR No.11/2011 dated 15.2.2011 was registered at Police Station Tuglak Road under Sections 403/404/406/409/420 and 120-B Indian Penal Code, 1860, against various accused persons named in the complaint including the petitioner herein.

8. As per averments in the present petition, in August, 2015, the petitioner and the respondent No.3 entered into a compromise in CS(OS) No.425/1993 and the joint application IA No. 18222/2015 under Order 23 Rule 3 read with Section 151 CPC for recording the settlement between them and passing a consent decree was filed in terms of the compromise before this Court. Vide the terms of the compromise, the petitioner and her daughters had agreed to sell the property no.21, Aurangzeb Road, New Delhi to respondent No.3 in terms of the agreement to sell dated 13.9.88 on revised terms and conditions and as per the terms of the compromise in paragraph 10 of the compromise application, the respondent No.3, the complainant had agreed to get the criminal complaint filed against the petitioner and also to get the FIR No.11/2011 dated 15.2.2011 registered with the Police Station Tuglak Road, being investigated by the EOW of the Delhi Police, Mandir Marg, to be quashed qua the petitioner herein. The respondent No.3 had also undertaken to sign all necessary documents, applications and affidavits to appear before this Court through its authorized representative and undertook to assist the petitioner in acquittal and discharge from all criminal charges in FIR No.11/2011.

9. Vide order dated 1.9.2015 in CS(OS) No.425/1993, this Court recorded the compromise between the petitioner and her daughters and the respondent No.3. It was thus submitted through the petition under consideration that the petition had thus been filed seeking partial quashing of the FIR No.11/2011, PS Tuglak Road against her and that in the criminal complaint filed by the respondent No.3., allegations had been made only against Pradeep Kumar Khanna regarding the sale transactions with six companies with respect to the property No.21 Aurangzeb Road, New Delhi and similarly in FIR No.11/11 allegations were only against Pradeep Kumar Khanna and not against Poonam Khanna and therefore it was thus submitted on behalf of the petitioner that both the complaint and the FIR No.11/11/ were devoid of any facts showing criminality against the petitioner and the petitioner had never been involved in any legal proceedings nor sale transaction with respect to the said property with respondent No.3 and with subsequent purchasers and that the petitioner had never dealt with the complainant, i.e., respondent No.3 nor had she signed any documents nor had she taken any consideration from him and she had no knowledge of the transaction and dealing between her late husband and the respondent No.3 and had learnt of the same only after his demise in 2002.

10. The contents of clause 10 of the compromise application referred to herein above are detailed as under:

“The second Party assures the First Party that upon the signing of this Agreement, it will withdraw the allegations in their criminal complaint pending in the Court of Learned

Metropolitan Magistrate, Patiala House, New Delhi against the parties of the First Part to the extent the same pertain to the first Parties, by filing an appropriate application before the Court of Learned Metropolitan Magistrate within Sixty days of the signing of the present Agreement. It is further agreed between the parties, in case the Learned Magistrate declines to delete the name of the parties of the first party from the criminal complaint, then a Petition under Section 482 of CrPC will be filed before the Hon'ble High Court for quashing and setting aside of the said criminal complaint. The party of the Second Part will assist and help the parties of the first part in getting the said criminal complaint quashed. The party of the Second Part undertakes to sign all necessary documents, applications, affidavits and if necessary appear in court through its authorized representative for getting its statement recorded in the said legal proceedings before the Hon'ble Delhi High Court and/or before the Learned Metropolitan Magistrate. The party of the Second part further undertakes to assist the parties of the First Part in getting an acquittal and discharge of all criminal charges in FIR No.11 of 2011.”

11. It was thus submitted by the respondent No.3 through its Managing Director Shri Avtar Singh that he was not interested in pursuing and continuing with the complaint and he had given his affidavit in support of the petition seeking quashing of the FIR in question qua the petitioner.

12. It has been submitted on behalf of the petitioner that there is no dispute that now remains between the petitioner and the respondent No.3 and that there are no claims or counter claims left against each

other between the petitioner and the respondent No.3 and that disputes between the petitioner and the respondent No.3 are of a private nature, and as they have been amicably settled, the FIR dated 15.12.2011 against the petitioner and all consequential proceedings emanating therefrom be quashed.

13. Reliance was placed on behalf of the petitioner on the observations in the verdict of the Hon'ble Supreme Court in ***Nikhil Merchant V. CBI & Anr.*** (2008) 9 SCC 677 to the effect:

“Whether criminal proceedings can be quashed under Article 142 on the basis of compromise, even where non-compoundable offences are involved-held, on overall view of the facts on compromise between the parties, by which parties withdrew all claims and allegations against each other, technically, held, should not be allowed to stand in the way of quashing of the criminal proceedings, since continuance of the same would be a futile exercise.”

14. Reliance was also placed on behalf of the petitioner on the verdict of the Supreme Court in ***Manoj Sharma Vs. State & Ors.***; 2008 (14) SCALE 44 observing to the effect:

“8. In our view, the High Court's refusal to exercise its jurisdiction under Article 226 of the Constitution for quashing the criminal proceedings cannot be supported. The First Information Report, which had been lodged by the complainant indicates a dispute between the complainant and the accused which is of a private nature. It is no doubt true and the First Information Report was the basis of the investigation by the Police Authorities, but the dispute between the parties remained one of a personal nature. Once the complainant decided not to pursue the matter

further, the High Court could have taken a more pragmatic view of the matter. We do not suggest that while exercising its powers under Article 226 of the Constitution of India the High Court could not have refused to quash the First Information Report but what we do say is that the matter could have been considered by the High Court with greater pragmatism in the facts of the case. As we have indicated herein before, the exercise of power under Section 482 Cr.P.C. or Article 226 of the Constitution is discretionary to be exercised in the facts of each case.”

15. Consequently, it had been submitted through the petition that when it was instituted on 22.9.2016 that the investigation was still in progress and no charge sheet had been filed to the knowledge of the petitioner.

16. A copy of the said charge sheet has however since been submitted on 11.1.2018. It was submitted before this Court during the hearing in the present petition on behalf of the petitioner that there was nothing incriminating that has been put forth against her during the course of investigation which aspect is affirmed by the counsel for the respondent No.3.

17. The learned APP for the State also submitted that as reported by the Investigating Officer of the case after completion of investigation, the charge sheet under Sections 406/420/120B Indian Penal Code, 1860, was filed against Paras Mal Lodha, Sanjay Sharma, Naw Ratan Bachhawat, Jaideb Kumar Dhar, Mahesh Sharma, Pradeep Kumar Khanna (abated), Luv Kumar Kaul (abated) and seven companies and it was further submitted by the I.O. of the case, Inspector Ajay Gupta,

EOW that during the course of investigation no evidence has been found against the petitioner and she has thus not been charge- sheeted.

18. The averments in the copy of the charge sheet that has been submitted under Section 173 Cr.P.C against Shri Pradeep Kumar Khanna, the spouse of the petitioner are to the effect thus:

“Accused Pradeep Kumar Khanna agreed to sell the property in question to complainant and accordingly he executed an agreement to sell. He had the dishonest intention since the beginning and in pursuance of same, after getting possession from Sudan Embassy, he handed over the possession of the property to co-accused Luv Kumar Kaul. Further despite knowing the fact of restrain order of Hon’ble Delhi High Court, he further hatched a criminal conspiracy in active connivance and collusion with L K Kaul and executed an agreement to sell dated 19.2.1997. Subsequently through a sham transaction sold the property to six accused companies by executing six sale deeds for 1/6th share for Rs. 48 lacs to avoid application of provisions of Income Tax Act. The amount received by accused from these six accused companies was again transferred by accused Pradeep Kumar to M/s Bhagwati Developers P Limited who in turn again transferred to the six companies for making payment to accused Pradeep Kumar Khanna. At the time of execution of sale deed, the original title documents were claimed to have been lost whereas the same were already handed over to complainant by accused Pradeep Kumar Khanna. The accused was also connived with accused Luv Kumar Kaul to put obstacles in the right of complainant to have the ownership of the property and in pursuance of same he pledged the property with accused Luv Kumar Kaul. Accused Pradeep Kumar had already expired on 12.1.2002 and the fact has also been verified from the concerned authority.”

19. The petitioner is also indicated to have been put in column No.12 wherein it was stated as follows.

“12. Particulars of accused persons not charge sheeted (suspect):

- | | | |
|--------|---|--|
| (i) | Name: | Poonam Khanna |
| (ii) | Husband's Name: | Late Pradeep Kumar Khanna |
| (iii) | Date/Year of birth | |
| (iv) | Sex. | Female |
| (v) | Nationality:- | Indian |
| (vi) | Passport No; | N/A |
| (vii) | Religion | Hindu |
| (viii) | Whether: SC/ST/OBC | N/A |
| (ix) | Occupation:- | House Wife |
| (x) | Address:- | C 78, IInd Floor,
Shivalik, Malviya Nagar,
Delhi. |
| (xi) | Provisional Criminal No. | N/A |
| (xii) | Suspicion approved | N/A |
| (xiii) | <i>Status of the accused (Suspect): Not Charge sheeted</i> | |
| (xiv) | Under acts & Sections:- | N/A |
| (xv) | <i>Any Special remarks including Reasons for not charge sheeting:-</i> | |
| | | <i>During the course of investigation involvement of suspect is not found in the case.”</i> |

20. The status report was also submitted dated 10.1.2018 on behalf of the State to the effect:-

“In continuation of the previous status reports dated 15/12/2016 and 8.8.2017, it is further submitted that after the completion of the investigation of case FIR No.11/11, PS Tughlak Road, Charge Sheet u/s 406/420/120-B Indian Penal Code, 1860, against accused Paras Mal Lodha, Sanjay Sharma, Naw Ratan Bachhawat,

Jaideb Kumar Dhar, Mahesh Sharma, Pradeep Kumar Khanna (abated), Luv Kumar Kaul (abated) and seven companies has been filed on 24/11/2017. During the course of investigation no evidence is found against the petitioner Smt.Poonam Khanna and as such the Petitioner is not charge sheeted in the case. In this matter the NDH is 9/3/2018 for the consideration on charge sheet.”

21. Written submissions have been submitted on behalf of the petitioner submitting to the effect that as laid down by the Apex Court in a large number of cases even in the cases of non-compoundable offences, the complaint or an FIR can be quashed on a settlement of the dispute with the parties especially when the suits are of civil or private nature *inter alia* matrimonial, financial and commercial which had been settled and compromised between the parties and where the Court is satisfied that there is hardly any likelihood of the accused being convicted and continuing of a criminal case would amount to the abuse of the process of the Court. Apart from reliance placed on the verdict in ***Nikhil Merchant V. CBI & Anr.*** (supra) and ***Manoj Sharma Vs. State & Ors.*** (supra) adverted to herein above, reliance was also placed on behalf of the petitioner on the verdict of the Hon’ble Supreme Court in ***Gian Singh vs. State of Punjab & Another***, (2012) 10 SCC 303; with specific reference to paragraph 58 to the effect:

“58.....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.....

61.The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before

exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In

other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

62. In view of the above, it cannot be said that B.S. Joshi¹, Nikhil Merchant² and Manoj Sharma³ were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the concerned Bench(es).

22. It was also submitted on behalf of the petitioner that partial or part quashing of FIR only qua the accused/offender with whom the complainant has compromised has also been upheld in ***Lovely Salhotra and Anr. V.s State, NCT of Delhi***; 2017 SCC Online SC 636 vide verdict dated 10.4.2017 of the Supreme Court wherein it was observed to the effect that it could not be held that the FIR cannot be quashed in part where no offence was made out against the accused who sought the quashing of the FIR. The observations in paragraph 4 of the said verdict of the Apex Court are to the effect:

“4. We have taken into account the fact of the matter in question as it appears to us that no cognizable offence is made out against the appellant-herein. The High Court was wrong in

holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants-herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2— herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos.2, 3, 4 and 6 prima facie.

7. Accordingly, we set aside the order of the High Court and quash the FIR qua the appellants-herein.”

23. Reliance was also placed on behalf of the petitioner on the verdict of this Court in ***Vijay Kumar Gupta V. State, Government of NCT of Delhi*** in CrI.M.C. No.2289/2013 wherein it was observed vide paragraph 7 to the effect:

“7. Looking into the facts and circumstances of the case and the fact that the petitioners have paid the loan/settlement amount to the Respondent No.2 and nothing remains to be adjudicated further, to remove the hurdle in the personal life of the present petitioners for leading better and peaceful life and to meet the ends of justice, I deem it appropriate to quash the FIR No.107/2003, under Section 406/420/468/471 Indian Penal Code, 1860,, registered at Police Station – Parliament Street, Delhi qua against the petitioners, namely Vijay Kumar Gupta, Raj Kumar Sharma and Vinod Chaudhary only to the extent of their role in commission of the alleged offence.”

24. *Inter alia*, it has been submitted on behalf of the petitioner that the disputes between the petitioner and the complainant, i.e., the

respondent No.3 were of a private nature and pertain to financial/commercial matters pertaining to sale of property No.21, Aurangzeb Road, New Delhi with the grievance of the respondent No.3 having been against the late husband of the petitioner to the effect that instead of making the sale deed in his favour, he had allegedly and illegally sold the property to the subsequent purchaser only to defeat his right, but now since the petitioner has sold the property to the respondent No.3 and the suit had been decreed in terms of the said decree of settlement, thus no grievance was left of the respondent No.3 qua the petitioner and all claims of the respondent No.3 had been settled.

25. It has further been submitted on behalf of the petitioner that there was no allegation in the FIR qua any complaints against the petitioner and the allegations were only against the late husband of the petitioner with respect to the sale of property in violation of the injunction order and that the petitioner admittedly was not involved in said transaction or legal proceedings with respect to the property and was not involved in the alleged sale in the favour of six companies and had never dealt with the respondent No.3, nor had signed any document nor had she taken any consideration from the respondent No.3 nor did she have knowledge of the transaction between her late husband and the respondent No.3. It was only after the death of her late husband that she had been compelled to defend herself and minor daughters in various legal proceedings.

26. *Inter alia*, it has been submitted on behalf of the petitioner that the withdrawal of the criminal complaint against the petitioner is

essentially a term of the condition of the settlement arrived at between the petitioner and the respondent No.3 arrayed to the present petition in CS(OS) No.425/1993 vide Clause 10 of the said settlement whereby it was agreed between the parties to that petition, i.e., between the complainant thereof i.e.. M/s Tosh Apartment Private Limited, the respondent No.3 herein and the legal representatives of the deceased Pradeep Kumar Khanna,i.e, the legal representatives 1A, 1B and 1C, namely, Poonam Khanna widow of late Sh. Pradeep Kumar Khanna, Vidhi Khanna and Ridhi Khanna, both daughters of late Sh. Pradeep Kumar Khanna of whom the legal representative 1A in CS(OS) 425/2013 is the present petitioner, i.e., Poonam Khanna and the parties have agreed to the effect:

“10. The Plaintiff assures the Defendants 1(a) to 1(c) that upon the signing of this Application, it will withdraw the allegations in their criminal complaint pending in the court of Learned Metropolitan Magistrate, Patiala House, New Delhi against the Defendants 1(a) to 1 (c) to the extent the same pertain to the Defendants 1(a) to 1(c), by filing an appropriate application before the court of Learned Metropolitan Magistrate within 60 days of the signing of the present Agreement. It is further agreed between the Plaintiff and Defendant 1(a) to 1(c), in case the Learned Magistrate declines to delete the name of the Defendants 1(a) to 1(c) from the criminal complaint, then a Petition Under Section 482 CrPC will be filed before the Hon’ble High Court for quashing and setting aside of the said criminal complaint against the Defendants 1(a) to 1(c). The Plaintiff will assist and help the Defendants 1(a) to 1(c) in getting the said criminal complaint quashed against them. The Plaintiff undertakes to sign all necessary documents, applications, affidavits and if necessary appear in court through its authorized

representative for getting its statement recorded in the said legal proceedings before the Hon'ble Delhi High Court and/ or before the Learned Metropolitan Magistrate. The Plaintiff further undertakes to assist the Defendant 1(a) to 1(c) for getting the acquittal and discharge of all criminal charges in FIR No.11 of 2011."

27. Placed on record is an affidavit of the respondent No.3 stating that it has no opposition for partial quashing of the FIR No.11/11 against the petitioner herein. It has also been reiterated on behalf of the petitioner that the investigating agency having found no role attributed to the petitioner in relation to any conspiracy and there being nothing incriminating found against the petitioner, no useful purpose would be served by keeping the FIR pending against the petitioner herein. The petitioner has thus sought invocation of the inherent powers of this Court in quashing the proceedings in relation to the FIR No.11/11, dated 15.2.2011, under Sections 403/404/406/409/420/120-B Indian Penal Code, 1860, Police Station Tuglak Road, New Delhi investigated by the Economic Offences Wing of the Delhi Police against the petitioner.

28. On a consideration of the entire relevant record, taking into account the charge sheet submitted by the State through the EOW against the persons arrayed as accused in the said case, *namely*, Paras Mal Lodha, Sanjay Sharma, Naw Ratan Bachhawat, Mahesh Sharma, Jaideb Kumar Dhar, M/s Star Exim Pvt. Ltd. through Director, M/s Haldiram Bhujia Bhandar Pvt. Ltd. through Director, M/s Convenient Tours & Travels Pvt. Ltd. through Director, M/s Panchawati Plantations Pvt. Ltd, through Director, M/s V K.S Finvest Pvt. Ltd.

through Director, M/s Vidhur Impex Traders (P) Ltd. through Director, M/s Bhagwati Developers (P) Ltd., through Director which have been charge sheeted in the capacity of the company, Late Luv Kumar Kaul is indicated to have not been charge sheeted due to his demise and the petitioner No.1 arrayed to the present petition having been specifically not charge sheeted with it having been ascertained during the course of investigation that the applicant was merely a suspect of this case and no involvement of hers was found in the case, coupled with the status report submitted by the State on 10.1.2018 categorically stating through Inspector Ajay Gupta of the Economic Offences Wing that no evidence was found against the petitioner Poonam Khanna and thus she had not been charge sheeted in the instant case, coupled with the settlement arrived at between the petitioner and the respondent No.3 as per Mark 'C1' forming part of the decree dated 1.9.2015 in CS(OS) 425/1993 disposed of by this Court, and coupled with the factum of the application of impleadment filed by M/s Vidhur Impex Traders (P) Ltd. and five other companies in CS(OS) No.425/1993 which were filed by the respondent No.3 herein M/s Tosh Apartment Private Limited for specific performance of an agreement to sell dated 13.9.98 having been dismissed by the Ld. Single Judge and appeals filed by the six companies M/s Bhagwati Developers (P) Ltd. vide orders dated 3.9.2007 and 26.5.2008 having been dismissed by the Division Bench of this Court which was against the order dated 3.9.2007 and 26.5.2008 in CS(OS) No.425/1993, and SLP's filed by subsequent purchaser of the suit property having been dismissed by the Hon'ble Supreme Court with the appointment of

receiver having been upheld, making it apparent on the record that there is no dispute left between the petitioner and the respondent No.3 coupled with the status report filed by the EOW that there was no investigation left against the petitioner and the verdicts relied upon on behalf of the petitioner, it is apparent that no useful purpose would be served by continuation of the proceedings or investigation against the petitioner. Thus the prayer made by the petitioner seeking quashing of the partial FIR is allowed and the FIR No. 11/11, dated 15.2.2011, under Sections 403/404/406/409/420/120-B Indian Penal Code, 1860, Police Station Tuglak Road, New Delhi is allowed to be quashed against the petitioner Mrs. Poonam Khanna alone.

29. Nothing stated hereinabove shall affect the merits or demerits of the contention that may be raised by other accused chargesheeted during the trial.

30. The petition is disposed of accordingly.

ANU MALHOTRA, J.

JANUARY 30th, 2018/SV