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

+ CRL.M.C. 4854/2016, CRL.M.A. 20151-20152/2016

AMIT SEHDEV

..... Petitioner

Through: Mr. Ajay Kr. Tyagi & Mr. Tavar K
Singh, Advocates.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Kamal Kr. Ghei, APP for State
with SI Ram Bhau, PS Khyala.
Mr. Kuldeep Singh, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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19.02.2018

Vide the present petition the petitioner seeks quashing of the FIR No. 345/16, PS Khyala registered under Sections 287/337 of the Indian Penal Code, 1860 which during the course of the investigation is indicated to have been converted into one, i.e., under Sections 287/338 of the Indian Penal Code, 1860 .

It has been submitted on behalf of the petitioner and the respondent no. 2 that there has been a settlement arrived at between the parties and the settlement document has been placed on record.

On behalf of the State, time was sought on 27.11.2017 to ascertain the aspect of the settlement with the respondent no. 2 in view of four fingers of the respondent no. 2 having been amputated and on 17.01.2018, a submission has been made on behalf of the State that as per the inquiry conducted by the SHO, PS Khyala, the

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respondent no. 2 is still in the employment of the petitioner.

The Investigating Officer of the present case is present today and has identified the petitioner Amit Sehdev as being the sole accused in FIR No.345/2016, under Sections 287/337 of the Indian Penal Code, 1860, PS Khayala and has also identified the respondent no. 2, Mohamad Mansoor being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner in the form of Election Commission Card and of the respondent no. 2 in the form of her Aadhar Card are produced in original and photocopies of which are on the record as Ex. CW1/A & Ex. CW1/B respectively, originals of which have been seen and returned.

The respondent no. 2 in his testimony on oath by the Court affirmed his having affixed his thumb impressions on the affidavit annexed to the petition as Ex. CW2/A and has also having affirmed his thumb impressions on the settlement document dated 11.10.2016 Ex. CW2/B. *Inter alia* it has been testified by the respondent no. 2 that in terms of the settlement he has received a sum of Rs. 70,000/0 previously from the petitioner and has also got his services back with the petitioner and with whom now he works as a care taker. He has also testified that he has received a sum of Rs. 1,00,000/- vide a demand draft bearing no. 554852 dated 24.11.2017 today in his favour drawn on the Punjab & Sind Bank, photocopy of which is on the record as Ex. CW2/C. He has further stated that there are now no

claims of his left against the petitioner. The testimony of the petitioner and the record both indicates that the proceedings under Section 338 of the Indian Penal Code, 1860 in relation to the FIR have been compounded vide proceedings dated 31.05.2017 of the Court of MM-06/W/Delhi in relation to FIR no. 345/16, PS Khyala, the certified copy of which is on the record as Ex. CW2/D.

On behalf of the State, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR No. 345/16, PS Khyala under Section 287 of the Indian Penal Code, 1860 alone now in view of the settlement arrived at between the parties and the testimony of the respondent no. 2. *Inter alia* reliance is placed on behalf of the petitioner on the verdict of this court in “**Hari Om Jha vs. The State NCT of Delhi And Another**” dated 24.08.2015 in CRL.M.C. No. 2353/2015 in which proceedings under Section 287 & 338 of the Indian Penal Code, 1860 have been quashed on the basis of settlement arrived at between the parties.

On consideration of the submissions made to the petition, the testimony of the respondent no. 2, the non-opposition on behalf of the State, the identification of the petitioner and the respondent no. 2 by the Investigating Officer, the settlement document Ex. CW2/B on the record and all claims between the petitioner and the respondent no. 2 having been settled and as testified by the respondent no. 2, the offence punishable under Section 338 of the Indian Penal Code, 1860 having already been compounded, and the factum that the respondent

no. 2 is still in the services of the petitioner and taking into account the verdict of this Court in “**Hari Om Jha vs. The State NCT of Delhi And Another**” dated 24.08.2015 in CRL.M.C. No. 2353/2015 also, it is considered appropriate for maintenance of peace and harmony between the petitioner and the respondent no. 2 in as much as the respondent no. 2 is still working with the petitioner to put a quietus to the litigation.

On behalf of the petitioner, it has been submitted that the prayer Clause (a) to the effect:

“Stay the further proceedings in respect of the First Information Report bearing FIR No. 1150/2006 under Section 406/498A/34 of the IPC registered at Police Station Uttam Nagar and all the other criminal proceedings emanating therefrom pending trial in the Court of Ms. Shivali Sharma, Metropolitan Magistrate, Mahila Courts, West District, Tis Hazari Courts, Delhi, till the disposal of the present petition.”

in relation to CRL.M.A.20151/16 has been inadvertently put in relation to FIR 1150/2006, PS Uttam Nagar.

In view thereof, the petition is allowed and the FIR No. 345/16, PS Khyala under Section 287 of the Indian Penal Code, 1860 to the extent that it now survives against the petitioner and all consequential

proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

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CW-1 SI RAM BHAU, POLICE STATION KHYALA.

ON S.A.

I identify the petitioner Amit Sehdev as being the sole accused in FIR No.345/2016, under Sections 287/337 of the Indian Penal Code, 1860, PS Khayala and I also identify the respondent no. 2, Mohamad Mansoor being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner in the form of photocopy of Election Commission Card and of the respondent no. 2 in the form of photocopy of her Aadhar Card are on the record as Ex. CW1/A & Ex. CW1/B respectively. (Original seen and returned).

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Statement of CW2 : Mr. Mohamad Mansoor, s/o Shri Mustak, aged 35/38 years, r/o Navi Ulla Khan, Zanuvi Bisalpur, Pilibhit.

ON S.A.

A settlement has been arrived at between me and the petitioner in relation to the FIR no. 345/2016, PS Khyala under Sections 287/337 of the Indian Penal Code, 1860, pursuant to which I have already received a sum of Rs. 70,000/- and have also received employment back with the petitioner and still working with the petitioner and now I works as a care taker now with the petitioner. I am not educated.

My affidavit annexed to the petition bears my thumb impression thereon at points-A & B on Ex.CW2/A. The settlement document dated 11.10.2016 also bears my thumb impressions at point A on each page thereon on Ex. CW2/B without any duress, coercion or pressure from any quarter. Pursuant to settlement agreement Ex. CW2/B, I have received a sum of Rs. 1,00,000/- vide a demand draft bearing no. 554852 dated 24.11.2017 in my favour drawn on the Punjab & Sind Bank, photocopy of which is on the record as Ex. CW2/C. There are now no claims of mine left against the petitioner in relation to FIR no. 345/16, PS Khyala. The certified copy of the order dated 31.05.2017 in relation to FIR no. 345/16, PS Khyala of the Court of MM-06/W/Delhi whereby offences punishable under Section 338 of the IPC, 1860 having been compounded as Ex. CW2/D.

I do not oppose the prayer made by the petitioner seeking quashing of

the FIR no. 345/16, PS Khyala under Sections 287/337 of the IPC, 1860. I do not want him to be punished in relation thereto.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

**RO & AC
FEBRUARY 19, 2018**