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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4266/2017 & CRL.M.A. 17131/2017

SHIVAM

..... Petitioner

Through: Mr. Gurmeet Singh, Adv.

versus

THE STATE & ANR

..... Respondent

Through: Mr. Izhar Ahmad, APP for State with
ASI Subhash Chandra, PS Geeta
Colony.
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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12.01.2018

CRL.M.A. 17131/2017

Exemption allowed, subject to just exceptions.

CRL.M.C. 4266/2017

Vide the present petition, the petitioner seeks quashing of FIR No.475/2015, registered at PS Geeta Colony, under Sections 354/354-D Indian Penal Code, 1860 and Section 12 of POCSO Act, 2012 and all consequential proceedings emanating therefrom submitting to the effect that there is a settlement arrived at between the petitioner and the respondent no.2 i.e. the mother of the prosecutrix and that the petitioner is a young man and a student and is doing work of AC repairing and that he has complied with the

direction dated 23.10.2017 and had left the area where the respondent no. 2 and the victim reside.

Vide order dated **23.10.2017** the Investigating Officer of the case was directed to ascertain whether the petitioner had left the area where the victim and the respondent no. 2 reside which aspect is affirmed by the State through Investigating Officer who affirms that the petitioner has left the area where the victim and the respondent no. 2 reside.

The respondent no. 2 in her examination by the Court on oath affirms having signed the affidavit annexed to the petition thereon at points-A & B on Ex.CW2/A and the compromise deed dated 09.08.2017 at point-A on Ex. CW2/B voluntarily of my own accord without any duress or coercion from any quarter.

Both the respondent no. 2 and the prosecutrix, who is also now aged 19 years have testified to the effect that they have no opposition to the prayer made by the petitioner seeking quashing of the said FIR submitting to the effect that the petitioner has left the area where they reside and that the prosecutrix has no contact with the petitioner any more. The respondent no. 2 has also stated that the petitioner is a young man and thus she does not want the continuation of the proceedings further against the petitioner. The respondent no. 2 and the CW-3, the daughter of the respondent no.2 have stated that they do not want the petitioner to be punished.

Learned APP for the State submitted that in view of the settlement arrived at between the parties, the prayer made by the

petitioner be so allowed on deposit of sum of money in the Juvenile Justice Fund as was so granted vide order dated 04.04.2016 of this Court in Cr. M.C. 1706/2014 whereby a sum of Rs. 5 lacs was directed to be deposited in the Juvenile Justice Fund by the accused therein.

Vide the order dated 04.04.2016 in Cr. M.C. 1706/2014, the FIR No.475/2015, registered at PS Geeta Colony, under Sections 354/354-D Indian Penal Code, 1860 and Section 12 of POCSO Act, 2012 has been allowed to be quashed, it having been observed to the effect that

“in view of the fact that the parties have amicably resolved their differences of their own free will, volition and without any coercion and no useful purpose will be served in continuance of the proceedings, rather the same would create further acrimony between them, it would be in the interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto. There is no legal impediment in quashing the FIR in question.

Consequently, FIR No. 28/2014 under Sections 354/451/323/34 IPC and Section 12 of POCSO Act registered at PS Lodhi Colony and proceedings pursuant thereto are hereby quashed subject to the Petitioner depositing a sum of Rs. 5 lakhs as agreed between the parties which would satisfy the condition between the parties that the same is to be deposited to a NGO/ CRL.M.C. 1706/2014 page 3 of 4 Charitable organization

working in the field of girl child/ upliftment of weaker section of society. Copy of the receipt of the deposit with the Juvenile Justice Fund be filed in Court.”

Taking the totality of the circumstance of the case into account and the statement of the respondent no.2 and her daughter, the victim and as the petitioner has left the area where the victim resides and as there is no opposition by the respondent no.2 and by the victim to the quashing of the said FIR, for the well-being of the victim herself in the interest of justice, it is considered appropriate to quash the FIR in question bearing no. 475/2015, registered at PS Geeta Colony, under Sections 354/354-D Indian Penal Code, 1860 and Section 12 of POCSO Act, 2012 and all the consequential proceedings emanating therefrom against the petitioner which are hereby quashed with a direction to the petitioner that he shall make no contact whatsoever in any manner with the prosecutrix and shall also deposit a sum of Rs. 50,000/- with the Juvenile Justice Fund with a copy of receipt being filed on Court record within a period of four weeks.

The petition is disposed of accordingly.

ANU MALHOTRA, J

JANUARY 12, 2018/vm

CRL.M.C. 4266/2017

page 4 of 4

3

CRL.M.C. 4266/2017

SHIVAM

Vs. THE STATE & ANR

Statement of CW1 : ASI Subhash Chand, PS Geeta Colony, Delhi.

ON S.A.

I identify the accused/petitioner Shri Shivam in relation to FIR No.475/2015, registered at PS Geeta Colony, under Sections 354/354-D Indian Penal Code, 1860 and Section 12 of POCSO Act, 2012 and I also identify the respondent no. 2 Smt. Manju and the prosecutrix Ms. X of the FIR in question present today in court.

Apart from the petitioner no. 1 there is no other person arrayed as an accused in the said FIR.

ANU MALHOTRA, J

RO & AC

JANUARY 12, 2018

3

CRL.M.C. 4266/2017

SHIVAM

Vs. THE STATE & ANR

Statement of CW2 : Smt. Manju, w/o late Shri Satish Kumar, aged 46 years r/o 4/14, Geeta Colony, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A and the compromise deed dated 09.08.2017 also bears my signature at point-A on Ex. CW2/B which I have signed voluntarily of my own accord without any duress or coercion from any quarter. I have done graduation in Hindi. The petitioner has left the area where I reside about one and a half years ago. There are now no problems with the petitioner. The petitioner is also a young man and thus I do not oppose the prayer made by the petitioner seeking quashing of FIR No.475/2015, registered at PS Geeta Colony, under Sections 354/354-D Indian Penal Code, 1860 and Section 12 of POCSO Act, 2012. My daughter is now aged 19 years.

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

ANU MALHOTRA, J

RO & AC

JANUARY 12, 2018

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CRL.M.C. 4266/2017

SHIVAM

Vs. THE STATE & ANR

**Statement of CW3 : Ms. X, d/o late Shri Satish Kumar, aged 19 years
r/o 4/14, Geeta Colony, Delhi.**

ON S.A.

I know the petitioner. He is present today in Court. I have no opposition to the FIR No.475/2015, registered at PS Geeta Colony, under Sections 354/354-D Indian Penal Code, 1860 and Section 12 of POCSO Act, 2012 being quashed and I do not want the petitioner to be punished in relation thereto as I have no contact with the petitioner any more and the petitioner does not live in my area now. I am doing my B.Com, second year.

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

ANU MALHOTRA, J

**RO & AC
JANUARY 12, 2018**