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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4837/2017 and Crl.M.A. Nos. 19250-19251/2017**

RAKESH MAHAJAN Petitioner

Through: None.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr.Izhar Ahmad, APP for State
With SI Mahender, PS Keshav
Puram
Mr.Shivam Chhabra, Adv for R-2
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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10.05.2018

Vide the present petition, the petitioner seeks quashing of the FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram submitting to the effect that a settlement has been arrived at between the parties.

Placed on record is a settlement deed dated 16.11.2017 Ex.CW-2/A with the terms of settlement between the petitioner and the respondent No.2.

Vide order dated 13.3.2018, in view of the terms of the settlement deed on the record, Clauses 2,3 and 4 thereof which read to the effect:

“(2) The Employee’s State Insurance Corporation had beared all the medical expenses of the employee in

relation to the treatment of the injuries sustained during the accident as mentioned in the aforesaid FIR.

That employee shall receive a sum of Rs.65.55 from the Employees' State Insurance Corporation as daily compensation till his entire lifetime as prescribed in the relevant provisions of the Employee State Insurance Act, 1948

(4) The employee has been paid the salary as compensation by the Employees State Insurance Corporation for the entire period of medical leave of approximately 72 days for which the employee underwent the medical treatment of the injuries sustained during the said alleged accident.”

The State was directed to conduct a verification in relation to the terms thereof having been complied with and also qua the aspect as to whether the respondent No.2 was still working with the petitioner. The status report has been submitted by the State under the signatures of Inspector Ajmer Singh, SHO, Police Station Keshav Puram stating to the effect that the report from the Employees State Insurance Corporation was obtained which indicated that the Employees State Insurance Corporation had borne all the medical expenses of the respondent No.2 in relation to the injuries sustained by him during the incident and even a sum of Rs.345/- per day for the entire period of medical leave of 71 days during which the respondent No.2 underwent medical treatment for the injuries sustained during the incident was paid to him. Further more, the respondent No.2 is receiving a sum of Rs.65.55/- per day from the ESI as daily compensation till his life time. The Investigating Officer present in the Court identified the respondent No.2 as being the complainant of

the FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram. The proofs of identities of the petitioner and the respondent No.2 have been produced in the form of Aadhaar Cards, photocopies of which are Ex.CW-1/A and Ex.CW-1/B and vouched to the verification conducted by him as being Ex.CW-1/C. He has also affirmed the signatures of the SHO and has testified to the report received from the ESIC being on record annexed status report is Ex.CW-1/D and has stated that he himself conducted the verification. The Investigating Officer also states that the respondent No.2 is still working with the petitioner.

The respondent No.2 in his deposition on oath on examination by the Court has affirmed having put his thumb impression on Ex.CW-2/A, the settlement deed dated 16.11.2017 arrived at between the petitioner and the respondent No.2 and also his affidavit Ex.CW-2/B and affirms that the terms thereof have been complied and that a sum of Rs.10,000/- in terms of Clause 7 of the said settlement deed has been paid to him by the petitioner during the course of his present deposition and states that he does not oppose the prayer made by the petitioner seeking quashing of the FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram nor does he seek that the petitioner be punished in relation thereto and states that he is still working as a Power Press Operator at the factory Mukund Engineering Industries of which the petitioner Rakesh Mahajan is the proprietor.

There is no opposition on behalf of the State to the prayer made by the petitioner seeking quashing of the FIR No.8/2017 under

Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram in view of the settlement arrived at between the parties.

In the circumstances and in view of the deposition of the respondent No.2 there is no reason to disbelieve the statement made by the respondent No.2 and affirmation on behalf of the respondent that respondent No.2 has been working with the petitioner for the last 10 years and has settled the matter amicably and the receipt of medical expenses for the entire period of medical leaves @ Rs.365.55 and daily compensation being paid by the ESIC to him and Rs.65.55 for his entire life time.

In view thereof it is considered appropriate to record the statement of the petitioner Rakesh Mahajan which is recorded separately.

The petitioner is now being assisted by his counsel Mr.Mayank Goel, Advocate. It has been considered essential to examine the petitioner who has stated on oath that the respondent No.2 is working with Mukund Engineering Industries of which the petitioner is the proprietor and that the respondent No.2 can continue to work there with him so long as he wants to do so with the petitioner and that the petitioner would not terminate his services of his own.

Taking into account the circumstances of the case, the factum that the respondent No.2 has been working with the petitioner for the last 10 years and is still working and all claims between the petitioner and the respondent No.2 have been settled and that the ESIC is providing him daily compensation in relation to his injuries sustained by him at the time of incident, it is considered to put a quietus to the

litigation between the parties and in view thereof FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram against the petitioner Rakesh Mahajan and all consequential proceedings emanating therefrom, are thus quashed accordingly.

The petition is disposed of.

Copy of the order be given Dasti under the signatures of the Court Master, as prayed.

ANU MALHOTRA, J

MAY 10, 2018/sv

IN THE HIGH COURT OF DELHI: NEW DELHI
Item No. 13

Crl. M.C. 4837/2017

RAKESH MAHAJAN V. STATE AND ANR..

10.05.2018

CW-1 SI MAHENDER, POLICE STATION KESHAV PURAM
ON S.A.

I am the Investigating Officer of the case FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram. I identify the petitioners, *namely*, Rakesh Mahajan as being the accused and the respondents No.2 *namely*, Rajinder Avasthi, as being the complainant of the FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram. Proofs of identities of the petitioner No.1 and the respondents No. 2 in the form of their original Adhaar Cards have been produced. The photocopies of the same qua the petitioners No.1 Ex.CW-1/A and of the respondent No.2 Ex.CW-1/B (Originals seen & returned.).

A verification in terms of order dated 13.3.2018 has been conducted by me and the status report dated 9.5.2018 prepared on verification conducted by me bears the signatures of Inspector Ajmer being the SHO, police station Keshav Puram, whose signatures I identify at point A on the status report Ex.CW1/C, as I have seen him signing and writing during the course of my official duties.

As per the report from ESIC, the respondent No.2 has received a sum of Rs.345/- per day for the entire period of medical leave of 71 days during which the respondent No.2 underwent medical treatment for the injuries

sustained during the incident. Further more, the respondents No.2 is receiving a sum of Rs.65.55/- per day from the ESI as daily compensation till his life time. The report received from the ESI as annexed to the status report Ex.CW1/C is Ex.CW-1/D. I have also verified from the respondent no.2 present in the Court today and he has informed that he is working with the petitioner.

RO & AC
10.05.2018

ANU MALHOTRA, J

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IN THE HIGH COURT OF DELHI: NEW DELHI

Crl. M.C. 4837/2017

RAKESH MAHAJAN V. STATE AND ANR..

10.05.2018

CW-2 RAJINDER AVASTHI S/O DEVI PRASAD AVASTHI AGED 40 YEARS PREVIOUSLY R/O GHONDA, U.P. PRESENTLY R/O WZ-100, SHAKURPUR VILLAGE, NEW DELHI.

ON S.A.

The settlement deed dated 16.11.2017 bears my thumb impression thereon each page on Ex.CW-2/A. My affidavit annexed to the petition with my thumb impression at points A and B as EX.CW-2/B.

In terms of the settlement dated Ex.CW-2/A my employment with the petitioner has been restored and I am working with the petitioner at Mukund Engineering Industries of which the petitioner is the proprietor thereof. I am still running the Power Press Machine in the factory of the petitioner. The ESIC has borne all my medical expenses and I have been paid a salary as compensation by the ESIC for the entire period of medical leave and for the medical treatment undergone by me. Further more, I am receiving a sum of Rs.65.55 from the ESIC as daily compensation for my entire life time in terms of the ESIC Act, 1948. In terms of Clause 7 of the settlement deed Ex.CW-2/A I have been paid a sum of Rs.10,000/- by the petitioner today in Court. Now there are no claims of mine left against the petitioner and thus I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.8/2017 under Section 287/338 Indian Penal Code, 1860, Police Station Keshav Puram

I have stated so voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC

10.05.2018

ANU MALHOTRA, J

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IN THE HIGH COURT OF DELHI: NEW DELHI

CrI. M.C. 4837/2017

RAKESH MAHAJAN V. STATE AND ANR..

10.05.2018

**CW-2 RAKESH MAHAJAN S/O N.C. MAHAJAN AGED 67 YEARS R/O
E-4, BHAGWAN DASS NAGAR, EAST PUNJABI BAGH.**

ON S.A.

The respondent No.2, Rajinder Avasthi, is working as a Press Operator with the Mukund Engineering Industries of which I am the proprietor. He can continue to work with me so long as he wants to work and I shall not terminate his services.

RO & AC

10.05.2018

ANU MALHOTRA, J