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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6726/2019 & CRL.M.A. 5475/2020, CRL.M.A. 5474/2020
CRL.M.A. 5476/2020
ASHOK GULIA & ANR Petitioners
Through: Mr. Jitender Tyagi, Adv.

versus

THE STATE & ANR Respondents
Through: Ms. Meenakshi Dahiya, APP for
State with ASI Gaj Raj, PS
Kapasehra.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **13.03.2020**

CRL.M.A. 5476/2020 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.A. 5474/2020

The matter is fixed for 14.04.2020 and taken up on CRL.M.A. 5474/2020 filed on behalf of the petitioners submitting to the effect that an early hearing in the matter be given in as much as the matter has been fixed at the final stage and the learned trial Court is imposing costs repeatedly of Rs.2000/- vide order dated 18.01.2020 and costs of Rs.3000/- vide order dated 04.02.2020 pending final disposal of the petition vide which the petitioner had sought quashing of the FIR No. 54/2016, PS Dwarka, Sector 23. In the interest of justice, the matter has been taken up for consideration.

CRL.M.A. 5474/2020 is accordingly disposed of and the early hearing

is allowed.

CRL.M.C. 6726/2019

In terms of proceedings dated 24.12.2019, the State has placed on record the statement of all public witness that had been recorded in the matter vide a status report submitted on 22.01.2020 under signatures of the SHO, PS Sector 23, Dwarka in the form of certified copies thereof.

Vide the present petition, the petitioners seek quashing of the FIR No. 54/2016, PS Dwarka, Sector 23 initially registered under Sections 325/341/356/379/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and no useful purpose would be served by the continuation of the proceedings in relation to the FIR in question.

The petitioners submit that the petitioners and the respondent no.2 have since arrived at a settlement vide a memorandum of understanding dated 21.12.2019 and all disputes between them have been resolved.

The proceedings on the record indicate that the charges in the matter have been framed by the learned trial Court of the ACMM, South-West, Dwarka in relation to the FIR No.54/2016 vide order dated 11.04.2017 against both the petitioner named Ashok Gulia and Mr. Tasvir Singh qua the alleged commission of offence punishable under Section 325/34 and Section 341 r/w 34 of the Indian Penal Code, 1860 with the charges having also been framed against the petitioner no.2 qua the offences punishable under Section 356/379 of the Indian Penal Code, 1860, the copies of which charges are on the record as Ex.CW2/D & CW2/E respectively.

The Investigating Officer of the case has identified the petitioners

present today in Court as being the accused arrayed in the FIR in question and has also identified respondent no.2 present in Court today as being the complainant of the said FIR.

The respondent no.2 has produced his original proof of identity, copy of which is on the record as Ex.CW2/A. The respondent no.2 in his examination on oath by the Court has affirmed having signed his affidavit Ex.CW2/B and the memorandum of understanding dated 21.12.2019 Ex.CW2/C voluntarily of his own accord without any duress, coercion or pressure from any quarter.

The respondent no.2 has stated that in view of the settlement arrived at between him and the petitioners, he does not oppose the prayer made by the petitioners seeking the quashing of the FIR No. 54/2016, PS Dwarka, Sector 23 initially registered under Sections 325/341/356/379/34 of the Indian Penal Code, 1860 nor does he want the petitioners to be punished in relation to the offence for which charges have been framed against the petitioner nos.1 & 2 under Sections 325/34 & Sections 341 r/w 34 of the Indian Penal Code, 1860 with charges having been framed against the petitioner no.2 also under Section 356/379 of the Indian Penal Code, 1860.

The respondent no.2 has also stated that he has studied upto Standard XII and he deals in optical fibre and has made his statement voluntarily after understanding the implications thereof. He has further stated that the petitioner nos.1 & 2 are known to him through an associate dealing in property who has since expired.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the

settlement arrived at between the petitioners and the respondent no.2 and the deposition of the respondent no.2.

There appears no reason to disbelieve the statement made by the respondent no.2 that he has arrived at a settlement with the petitioner voluntarily, in view of the deposition of the respondent no.2, it is considered appropriate to put a quietus to the litigation and disputes between the parties for maintenance of peace and harmony between them qua the FIR No. 54/2016, PS Dwarka, Sector 23 qua the offence punishable under Sections 325/34 and Sections 341/34 of the Indian Penal Code, 1860 against the petitioner nos.1 & 2 and Sections 356/379 of the Indian Penal Code, 1860 against the petitioner no.2 is thus quashed.

The petition is disposed of.

CRL.M.A. 5475/2020

This is an application filed on behalf of the petitioner seeking stay of the proceedings before the learned trial Court. The petition having been disposed of, the application calls for no further action.

ANU MALHOTRA, J

MARCH 13, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C.-6726/2019

ASHOK GULIA & ANR Vs. THE STATE & ANR

13.03.2020

CW-1 ASI Gajraj, PS Kapasehra.

ON S.A.

I was previously posted at PS Dwarka, Sector 23 and I am the Investigating Officer of the FIR No. 54/2016, PS Dwarka, Sector 23.

I identify the petitioner no.1 Mr. Ashok Gulia and petitioner no.2 Mr. Tasvir Singh as being the accused arrayed in the FIR No. 54/2016, PS Dwarka, Sector 23 initially registered under Sections 325/341/356/379/34 of the Indian Penal Code, 1860 and the charges have since been framed against the petitioner nos.1 & 2 under Sections 325/34 & Sections 341 r/w 34 of the Indian Penal Code, 1860 vide order dated 11.04.2017 of the learned trial Court with charges having been framed against the petitioner no.2 also under Section 356/379 of the Indian Penal Code, 1860 vide order dated 11.04.2017 of the learned ACMM, South-West, Dwarka. I identify the respondent no.2 Mr. Alok Kumar as being the complainant of the said FIR.

RO & AC
13.03.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C.-6726/2019

ASHOK GULIA & ANR Vs. THE STATE & ANR

13.03.2020

CW-2 Mr. Alok Kumar, s/o Mr. Shri Chand, aged 46 years, r/o VPO, Ghuman Hera, New Delhi-73 i.e. my permanent address with my other address being Flat No.372, Pink Apartment, DDA MIG, Sector-18-B, Dwarka, New Delhi.

I have brought my original proof of identity, copy of which is on the record as Ex.CW2/A. My affidavit in support of the averments made in the petition bears my signatures thereon at points A & B thereon on Ex.CW2/B. The memorandum of understanding dated 21.12.2019 arrived at between me and the petitioner nos.1 & 2 bears my signatures on each page thereof as also visible at point A thereon on Ex.CW2/C. I have signed all these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

In view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No. 54/2016, PS Dwarka, Sector 23 initially registered under Sections 325/341/356/379/34 of the Indian Penal Code, 1860 in relation to which, the charges have been framed against both the petitioners for the offence punishable under Section 325 r/w 34 and Section 341 r/w 34 of the Indian Penal Code, 1860 with charges having been framed against the petitioner no.2 named Tasvir for the offence punishable under Section 356/379 of the Indian Penal Code, 1860 vide order dated 11.04.2017 of the learned trial Court in the FIR. The copies of the said orders are on the record as

Ex.CW2/D and CW2/E respectively, nor do I want the petitioners to be punished in relation thereto.

I have studied upto standard XII and I deal in optical fibre.

I have made my statement voluntarily of my own accord without any duress, coercion or pressure from any quarter after understanding the implications thereof.

RO & AC
13.03.2020

ANU MALHOTRA, J