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

+ **CRL.M.C. 6227/2023**

SALIM@ DEVI KINNAR AND ANR Petitioners

Through: Ms. Sujata Ray, Adv. with petitioners.

versus

THE STATE GOVT OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Digam Singh Dagar, APP and
ASI Parveen Kumar, PS Uttam
Nagar.
R-2 in person.

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Date of Decision: 29.08.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 23288/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

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1. The present petition has been filed under section 482 Cr.P.C. seeking

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quashing of case FIR No. 246/2019 dated 16.04.2019 registered under Sections 452/323/34 IPC and 25/27/54/59 of Arms Act at PS Uttam Nagar. The said FIR was lodged on the complaint of respondent No. 2/Jassi.

2. Briefly stated the allegations as per the FIR are that the parties who belong to the Kinnar community, along with their disciples, got into a quarrel over 'BhadaiMaangna' and their area of work. The complainant along with her 15 disciples, stated to be residents of Jhuggi No. 317, Kali Basti, Jhanda Chowk, Krishna Colony, Uttam Nagar, New Delhi, used to do the work of 'BhadaiMaangna'. It was alleged that the petitioner No. 1 also referred to as Devi (Kinnar Guru) was the Guru of the complainant earlier. It was alleged that 3-4 months prior to the incident, petitioner No. 1/Guru Devi made a separate Dera and since then dispute is ongoing between the parties. Allegedly on the morning of 15.04.2019 the complainant received a threatening call from petitioner No. 1/Guru Devi that neither the complainant nor her disciples should go out for Bhadaimaangna and if they do, they will face dire consequences. However, on the said day the complainant and her disciples went for Bhadaimaangna. Later that day around 8:00 PM when the complainant was at her house having dinner with her rickshaw driver - Rubel Johnson and her children, one Hunny Singh came running and entered the house of the complainant. He was followed by three other boys. Out of the three, two of them had sticks in their hands and had their faces covered. It has been alleged that of



the two, one was wearing black T shirt with black pants and the other black T-shirt with blue pants. The third one wore an orange T-shirt and his face was not covered.

3. It was alleged that during the scuffle their masks came off and the complainant could identify the boy wearing black T-shirt with black pants as Krishna who is petitioner No. 2 herein. It was alleged that the complainant knew the petitioner No. 2 very well and since long, as he also worked under the petitioner No. 1/ Guru Devi. Allegedly, Krishna and the other boy in an orange T-shirt were carrying a stick. It was alleged that the boy in black T-shirt and blue pants suddenly took out a pistol and pointed it at the complainant. At the same time, the rickshaw driver of the complainant namely Rubel intervened, which is when, the boy in the orange T-shirt gave him several blows on his head with the stick. Amidst this chaos, the complainant ran and pushed the home theatre system at the boy pointing the gun at her, because of which the magazine from his gun fell, leading to panic and commotion among the accused persons. Meanwhile the complainant with the help of Honey Singh, Rubel and other neighbours chased out the accused persons, who in a haste forgot their motorcycle of make Honda CB Twister bearing registration No. HR 12Y 7158 at the spot itself. Later the complainant along with the injured persons were taken to the hospital whereby it was opined by the Doctor that the injuries were simple and were given with blunt object. Thereafter when the police went to the spot for inspection, they recovered the magazine which had 5 live



rounds and had KF 7.65 written at the bottom of it. The said magazine and the motorcycle were taken into custody by the police.

4. Basis these allegations, the present FIR came to be registered against the petitioners herein. Chargesheet has been filed under sections 506/120B/34 IPC against petitioner No. 1 and under sections 452/323/34 IPC against petitioner No. 2. Charges have yet not been framed.
5. Ld. Counsel submits that while the proceedings were underway, the parties reached on an amicable settlement vide MoU dated 31.07.2023 on the following terms and conditions:

“Whereas the expression of the parties shall mean and include their parents/ family members/ legal heirs etc.

Whereas, a FIR No.246/2019 was lodged by the first party against the second party in P.S. Uttam Nagar on 16.04.2019 U/s 452/232/405/120B/34 IPC & 25 Arms Act.

And whereas, later on in order to avoid any future litigations, unnecessary harassment and to maintain cordial relations with each other, both the parties decided to settle all their disputes qua the aforesaid FIR.

And whereas now both the parties decided that they will not pursue the aforesaid case/FIR and it is agreed between both the parties that the second party / accused will file a petition for quashing of the aforesaid FIR and the first party / complainant agreed to fully cooperate with the second party and to sign the Affidavit and to remain present before the Hon’ble High Court of Delhi at the time of recording of their statements.



And whereas, both the parties arrived into the present settlement voluntarily, with their own free will and consent and without any pressure, coercion or undue influence from any corner.”

6. Learned counsel for the petitioner submits that pursuant to the above settlement the parties no longer wish to pursue the present complaint. It has been submitted that the parties are well known to each other and belong to the same community. It has been further submitted that the respondent No. 2/complainant was a disciple of the petitioner No. 1 and the fight arose in a spur of the moment owing to some misunderstandings which now stand amicably resolved. Ld. Counsel submits that the even the arms/cartridges were recovered from the site of the incident and not from the possession of the petitioners. Moreover, the chargesheet has not been filed under Arms Act qua the petitioners.
7. Parties are present in person and have been duly identified by the IO. Respondent No. 2 states that she has amicably resolved all the disputes with the petitioners and no longer wishes to pursue the present complaint. She states that the dispute arose due to some misunderstandings over a petty issue of ‘badhaimaangna’. She states that the petitioner No. 1 was her Guru. She states that in order to bring peace and harmony in the community, she has no objection if the present FIR is quashed. The IO has stated that the chargesheet has not been filed under provisions of the Arms Act qua the petitioners and there is no other case pending against them. Respondent No. 2 states



that she has settled the dispute voluntarily without any fear, force or coercion. An affidavit of No Objection has also been filed along with the present petition.

8. Submissions considered.
9. Admittedly the dispute in the instant matter arose between a teacher and her disciples and is personal in nature. Parties are well known to each other, since long and belong to the same community. It has been stated that the dispute arose due to misunderstandings and miscommunication which now stands amicably resolved. The respondent No. 2/complainant does not wish to continue with the present complaint and wants to put quietus to the same to maintain peace and harmony. In such circumstances even if trial is allowed to continue, there is a bleak and remote chance of conviction, given that the parties have resolved their dispute and do not want to pursue the complaint. This court under its inherent jurisdiction can quash any criminal proceeding either to secure the ends of justice or to prevent the abuse of the process of the Courts. I consider that to maintain social harmony and good relations between the parties, it would be in the interest of justice that the present complaint and proceedings emanating therefrom are quashed.
10. Considering the totality of facts and circumstances of the case and in view of the submissions of respondent no.2, the case FIR No. 246/2019 dated 16.04.2019 registered under Sections 452/323/34 IPC and 25/27/54/59 of Arms Act at PS Uttam Nagar and all subsequent



proceedings arising therefrom are quashed.

11. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 29, 2023/AR