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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 01.02.2024

+ W.P.(CRL) 139/2024, CRL.M.A. 1171/2024

SH. RISHABH KHANDELWAL

..... Petitioner

Through: Mr. Gurmit Singh Hans, Ms. Somya  
Chugh and Ms. Nishu, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI  
AND ANR.

..... Respondents

Through: Mr. Yasir Rauf Ansari, ASC with  
Mr. Alok Sharma and Mr. Vasu  
Agarwal, Advocates with SI Jaipal  
Singh, PS: Kotwali.  
Mr. R. K. Tarun, Ms. Aditi  
Shivadhatri and Mr. Vaibhav Rai  
Gupta, Advocates for R-2.

+ BAIL APPLN. 3581/2023, CRL.M.A. 29130/2023

SH. RISHABH KHANDELWAL

..... Petitioner

Through: Mr. Gurmit Singh Hans, Ms. Somya  
Chugh and Ms. Nishu, Advocates.

versus

THE STATE

..... Respondent

Through: Mr. Ajay Vikram Singh, APP with  
SI Jaipal Singh, PS: Kotwali.  
Mr. R. K. Tarun, Ms. Aditi  
Shivadhatri and Mr. Vaibhav Rai  
Gupta, Advocates for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

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**J U D G M E N T**

**ANOOP KUMAR MENDIRATTA, J (ORAL)**

**W.P.(CRL) 318/2024 & CRL.M.A. 1171/2024**

1. A Writ Petition under Article 226 of the Constitution of India read



with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for quashing of FIR No. 0823/2023 under Sections 406/420 IPC registered at P.S.: Kotwali, Delhi and the proceedings emanating therefrom.

2. In brief, as per the case of the prosecution, complainant/respondent No.2, Mr. Rajiv Kumar alleged that on 25.09.2023 he was accompanied by Rishabh Khandelwal (Petitioner) who had earlier come in contact with him, at Kucha Mahajani, Chandni Chowk, Delhi for selling of the gold coins owned by the complainant. The complainant had shown the said 06 coins of gold of 100 gms each to shopkeeper Mr. Gupta, who assigned one of his workers to get the purity of the gold checked. However, petitioner left the spot after taking the said coins from the worker outside the shop after assuring that the same could be handed over to respondent No.2. The present FIR was accordingly registered on the complaint lodged by respondent No.2 and the petitioner was thereafter untreatable.

3. Learned counsel for the petitioner submits that petitioner, aged about 27 years, has clean past antecedents and the matter has been settled between the parties in terms of MoU dated 05.01.2024. Further the petitioner has compensated the complainant by returning 05 gold coins and paying an amount towards 6th gold coin, as agreed between the parties. He further submits that petitioner expresses remorse on such a conduct and the incident had taken place under a misunderstanding. It is also contended that there is no possibility of conviction of accused in view of the settlement between the parties.

4. Learned APP for the State submits that a status report has been filed on record and the factum of agreement between the parties has been verified.



Respondent No. 2 is present in-person and submits that matter has been accordingly settled with the petitioner and he has no further grievance against the petitioner.

5. Petitioner in the present case seeks to invoke the powers under Section 482 of Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of any Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalised list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society. Reference may also be made to judgement passed by the Co-ordinate Bench of this Court in CRL.M.C. 1741/2021 titled as '*Sunil Tomar vs. The State of NCT of Delhi & Anr.*' decided on 12.04.2022, wherein the proceedings under Section 406/420 IPC were quashed on the basis of settlement between parties.

6. In view of the statement of the complainant regarding settlement between the parties and return of the disputed gold coins, no purpose shall be served by keeping the proceedings pending. The conduct of trial in view of the settlement between parties may be a futile exercise, as the prosecution may not ultimately succeed or achieve any purpose. The fact that the petitioner has expressed his remorse and has clean past antecedents also needs to be kept in consideration. Keeping in view the totality of the facts and circumstances of the case, this court is of the opinion that technicalities should not be allowed to stand and the continuity of proceedings in view of settlement would be an abuse of process of court. Consequently, FIR No.



0823/2023 under Sections 406/420 IPC registered at P.S.: Kotwali, Delhi and the proceedings emanating therefrom are quashed.

The gold coins be accordingly released back to the owner against receipt after due verification by the Police, in accordance with law.

W.P.(CRL) 139/2024 is accordingly disposed of. Pending application, if any, also stands disposed of.

7. In view of the quashing of FIR, the BAIL APPLN. 3581/2023, preferred on behalf of the petitioner has become infructuous and is accordingly disposed of as infructuous.

A copy of this order be kept in BAIL APPLN. 3581/2023.

**ANOOP KUMAR MENDIRATTA, J.**

**FEBRUARY 01, 2024/R**