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

+ **CRL.M.C. 2352/2023**

ASHOK JAIN

..... Petitioner

Through: Mr. Attin Shankar Rastogi, Mr. Rajesh Ranjan, Mr. Adil and Mr. Archit Chauhan,
Advocates with petitioner in person

versus

STATE (GOVERNMENT OF NCT OF DELHI) & ORS.

..... Respondents

Through: Mr. Aashneet Singh, APP for State with
SI Amit
Mr. Jitender Kumar and Mr. Vipin, Advocates for
respondent No.2 with respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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09.02.2024

CRL.M.A. 4237/2024 (seeking striking of respondent No.3 by petitioner)

1. By way of present application filed under Section 482 Cr.P.C., the applicant seeks deletion of name of respondent No.3 from the array of parties.
2. Learned counsel for the petitioner submits that Dr. R.L. Gupta/respondent No.3 was inadvertently impleaded and his name be deleted from the array of parties.
3. Learned APP for the State, on instructions, submits that respondent No.3 was not present on the day of the incident and he has also not been



made a witness.

4. Considering the aforesaid, respondent No.3 is deleted from the array of parties.

5. In view of the above, the present application is disposed of.

CRL.M.C. 2352/2023 and CRL.M.A. 8908/2023

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.820/2010 registered under Sections 448/380/506/511 IPC at P.S. Shakarpur, New Delhi on the premise that the parties have amicably settled their disputes. Further, the petitioner also seeks quashing of the proceedings initiated under Section 82 Cr.P.C., resulting in addition of Section 174A IPC in the chargesheet.

2. As per the allegations levelled in the FIR, the petitioner trespassed and committed theft in the property/house of the respondent No.2.

3. Learned counsels for the parties submit that the parties have entered into a settlement vide Settlement Agreement dated 05.02.2024 before Delhi High Court Mediation and Conciliation Centre, Delhi and in terms of the settlement, respondent No.2 is now left with no claim whatsoever against the present petitioner.

4. The petitioner and respondent No.2, who are present in the Court, have been identified by their respective counsels as well as by the Investigating Officer.

5. The petitioner has shown remorse for his conduct and he undertakes not to repeat the same in future. Respondent No.2 states that she has entered into the aforesaid Settlement Agreement out of her own free will, volition and without any coercion. She further states that she has no objection if the present FIR and consequent proceedings are quashed.



6. Learned counsels for the parties submit that no other proceedings are pending between the parties.

7. Insofar as the proceedings under Section 82 Cr.P.C. are concerned, learned counsel for the petitioner submits that the case relates to an incident which had arisen in the context of a Lease Deed executed between the parties on 21.05.2005 with respect to Flat No.201, Bank Apartment, Kishanganj, Laxmi Nagar, New Delhi. The petitioner's wife *Mrs. Alka Jain* was the landlord/owner and had leased the said premises on rent for a period of 11 months commencing from 21.06.2005. On account of petitioner's non-appearance, summons were issued to the petitioner on the address of the tenanted premises, instead of the address mentioned in the lease deed. The petitioner claims that he was resident of *H. No.2/26, Ansari Road, Daryaganj, New Delhi-110002*, the address mentioned in the lease deed.

Learned counsel for the petitioner has also contended that the petitioner could have only been declared as proclaimed person in terms of the decision of this Court in Mohd. Harish Usmani v. State (NCT of Delhi) reported as **2021 SCC OnLine Del 5335**.

8. Learned APP for the State also confirms that all the summons as well as process were issued to the petitioner at the tenanted premises only.

9. Concededly, the possession of the tenanted premises was with respondent No.2, who alleged that on 12.10.2010, petitioner had trespassed into the property. The chargesheet reveals that the possession remained throughout with respondent No.2. The petitioner's address was available on record in terms of the lease deed. However, no attempt was made to serve the petitioner at the address where he was living. It is travesty of justice that service of petitioner was shown to be done at the address where admittedly



the complainant was residing as tenant.

10. In the considered opinion of this Court, the proceedings under Section 82 Cr.P.C. are liable to be set aside. Consequently, invocation of S.174-A is set aside.

11. The parties have reached a settlement and the complainant states she has no objection if the FIR is quashed. Learned APP for the State submits that in the present case the petitioner is the only accused persons and respondent No. 2 is the only complainant/victim.

12. The parties shall remain bound by the statements made in Court today.

13. In view of the above facts and since no useful purpose will be served in continuance of the present criminal proceedings, it is directed that the aforesaid FIR and the consequent proceedings arising therefrom are hereby quashed.

14. With the above directions, the petition is disposed of alongwith the pending application.

MANOJ KUMAR OHRI, J

FEBRUARY 9, 2024

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