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

+ **W.P.(CRL) 867/2024, CRL.M.A. 8241/2024 (stay)**

GAUTAM SHARMA

.....Petitioner

Through: Mr. Avi Singh and Mr. Shikhar Garg,
Advocates with petitioner.

versus

STATE (NCT) OF DELHI & ANR.

.....Respondents

Through: Mr. Anand V Khatri, ASC (Crl.) for
the State with SI Mandeep, PS Baba
Haridass Nagar, HC Amit Chikara,
PS Baba Haridass Nagar.
Counsel for R2 (appearance not
given) with R2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

04.09.2024

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1. The Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner, namely, Mr. Gautam Sharma seeking to quash the FIR No. 395/2023 dated 21.08.2023, registered under Sections 380 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC, 1860"*) registered at Police Station Baba Haridas Nagar, Dwarka and the proceedings emanating therefrom.
2. Issue notice.
3. Mr. Anand V. Khatri, learned ASC appearing on advance notice,



accepts notice on behalf of the State.

4. Brief facts of the case are that the petitioner, namely, Mr. Gautam Sharma is a 45 year-old man, engaged in the business of manufacturing of baked goods and has no prior criminal antecedents. It is stated that on 31.08.2023, the petitioner had purchased a mobile phone (Google Pixel 128 GB, Obsidian) from one Ayush Communication Service, located at Shop No. 203-A, 2nd Floor, South Point Mall, Golf Course, Road, Phase-V, Gurrgram, Haryana-122002 for an amount of Rs.49,000/-. Apparently, the mobile phones and other articles of the Insta Kart Service Pvt. Ltd., were stolen. The petitioner was issued an invoice for the same in his name, in a *bona fide* transaction at market value (approximately the MRP) of the phone. Thereafter, the petitioner met the Police on 27.01.2024 and the mobile phone in question was handed over to the police along with the invoice dated 31.08.2023. The statement under Section 161 of CrPC, was also recorded. However, no notice under Section 41A CrPC has been served upon the petitioner till date. It is further stated that on 06.03.2024, the petitioner had received a Show Cause Notice from the RPO seeking clarifications, stating that an adverse police verification report corresponding to his application for passport reissue (file No. DL4079147137024) had been received. It is stated that the petitioner's role in the same is limited to having legally and unknowingly purchased a mobile phone that is alleged stolen property. The petitioner is a *bona fide* third party purchaser of the mobile phone. The petitioner is at risk of his passport being seized/impounded by the RPO and was unable to travel abroad, thus depriving of his right to life and liberty.

5. On 07.08.2023, on the complaint of Mr. Madan Joshi, the respondent



No. 2, an FIR bearing No. 395/2023 dated 21.08.2023, under Section 380 of the IPC, has been registered at Police Station Baba Haridas Nagar, Dwarka reporting the theft of his articles from Insta Kart Service Pvt. Ltd., consisted of nine mobile phones. During investigation, one of the stolen articles i.e. the mobile phone was traced in possession of the petitioner *herein*. However, on investigation, it was found that petitioner is a *bona fide* purchaser, who had purchased it validly against a receipt from a shop in Gurgaon, which fact stands verified. It is submitted that the petitioner is not an accused in FIR No. 395/2023. In view of the Status Report, it is held that the petitioner is not an accused in FIR No. 395/2023 and the respondent No. 1 is hereby directed to convey this information to NCRB, about the discharge of the complainant in the present FIR No. 395/2023, Police Station Baba Haridas Nagar.

6. The parties are present before this Court in-person today, and have been identified by their counsel and Investigating Officer concerned.

7. The present petition has been signed by the petitioner and is supported by his affidavit.

8. Today, the complainant/respondent No. 2, who is present in Court, states that he has no objection if the FIR is quashed.

9. In view of the above facts that the parties have amicably resolved their differences out of their own free will and without any coercion, no useful purpose will be served in continuing with the proceedings, rather the same would create further acrimony between them. Hence, it would be in the interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto.

10. Moreover, there is no legal impediment in quashing the FIR in



question.

11. Accordingly, FIR No. 395/2023 dated 21.08.2023, registered under Sections 380 of the IPC registered at Police Station Baba Haridas Nagar, Dwarka and all consequential proceedings emanating therefrom are quashed.

12. The petition stands disposed of. The pending application also stands disposed of.

NEENA BANSAL KRISHNA, J

SEPTEMBER 4, 2024/RS