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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 04.04.2024

+ CRL.M.C. 2673/2024

KENNETH ONYEMA

..... Petitioner

Through: Mr.Prabhash Kumar, Mr.S.Khan,
Mr.Mohit Yadav, Mr.Shiva Singh,
Mr.Mukesh Kumar and Ms.Richa,
Advocates.

versus

STATE GNCT OF DELHI AND ANR

..... Respondents

Through: Ms.Kiran Bairwa, APP for State with
ASI Sudhir Kumar, PS Burari.
Ms.Jyoti and Mr.Firoz Khan,
Advocates with respondent No.2
(through VC).

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)

CRL.M.A. 10169/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 2673/2024 & CRL.M.A. 10168/2024

1. Petition under 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. 762/2022 under Sections 354/354D/341/506/509 IPC registered at P.S.: Burari and the proceedings emanating therefrom. Section 14 of the Foreigners Act, 1946 was subsequently invoked by the prosecution, since the petitioner was not in possession of a valid visa.
2. Issue notice. Learned APP for the State and learned counsel for



respondent No.2 alongwith respondent No.2 (through VC) appear on advance notice and accept notice.

3. In brief, as per the case of the prosecution, present FIR was registered under Sections 354/354D/341/506/509 IPC on the complaint of respondent No.2 who alleged that on 27.09.2022 at about 8:15-30 pm as well as on an earlier occasion, petitioner blocked the path of respondent No.2/complainant. Further when the petitioner was asked to give passage, he threatened the complainant and stared at her.

4. Charges against the petitioner stands framed under Sections 354/354D/341/506/509 and Section 14 of the Foreigners Act, by the learned Trial Court.

5. Learned counsel for the petitioner submits that matter has been amicably settled between petitioner and respondent No.2. It is urged that the incident had occurred over a minor issue without any intention of petitioner to outrage the modesty of respondent No.2, as alleged and no offence is disclosed under Sections 354/354D even as per contents of the FIR. He further submits that the petitioner shall face the proceedings before the learned Trial Court with respect to offence under Section 14 of the Foreigners Act, in accordance with law and may be deported, if found guilty.

6. Learned APP for the State submits that since the petitioner was not in possession of a valid visa, Section 14 of the Foreigners Act was also invoked. In view of amicable settlement between the parties, he does not object for quashing of offences under Sections 354/354D/341/506/509 IPC. IO further confirms that petitioner has clean past antecedents.

7. I have given considered thought to the contentions raised.

Respondent No.2 (through VC) has been identified by SI Sudhir



Kumar, P.S.: Burari and confirms that the matter has been amicably settled without any threat, pressure or coercion and she has no objection in case the offences in question are quashed.

8. 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 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.

9. Petitioner is a foreigner with no other involvement, he intends to plead guilty qua offence under Section 14 of the Foreigners Act and is also willing to be deported, in accordance with law. Considering the facts and circumstances, since the matter has been amicably settled between the parties, proceedings against the petitioner under Sections 354/354D/341/506/509 IPC stands quashed without prejudice to the proceedings pending against petitioner under Section 14 of the Foreigners Act.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information and compliance and taking up further proceedings against the petitioner under Section 14 of the Foreigners Act, in accordance with law.

ANOOP KUMAR MENDIRATTA, J.

APRIL 04, 2024/v