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

+ **CRL.M.C. 2787/2024**

DINESH KUMAR & ORS.Petitioners
Through: Mr. Aahil Mishra,
Advocate.

versus

STATE & ANR.Respondents
Through: Mr. Naresh Kumar
Chahar, APP for the State.
Mr. Rajveer Nanwal,
Advocate for R-2
alongwith R-2-in-
Person/Shiv Kumar.
SI Subhash, P.S. Sarita
Vihar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
21.10.2024

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1. The present petition is filed seeking quashing of Criminal Complaint No. 614783/2016 pending before the learned Metropolitan Magistrate, South East District, Saket Court, Delhi.
2. The complaint was filed by Respondent No. 2/complainant alleging that he was implicated in a false case by the petitioners. It is alleged that Petitioner Nos. 2-3 accused Respondent No. 2 of carrying stolen wheat. Thereafter, Respondent No. 2 was called by the petitioners and subsequently taken into custody. It is further alleged that while in custody, the complainant was tortured at the hands of the petitioners.
3. It is further averred that in order to evade liability, the petitioners made a false report stating that Respondent No. 2 was

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fighting with one Ashok Kumar, thereby making a false case against Respondent No.2.

4. The present petition is filed on the ground that the parties have amicably settled their disputes and have also entered into a Memorandum of Understanding dated 18.11.2023, of their own free will without any coercion, undue influence or pressure. Pursuant to the same, it is stated that Respondent No. 2 has already received a sum of ₹4,00,000/- as compensation.

5. The learned counsel for the petitioners' submits that the alleged incident occurred way back in the year 2007 and the parties have been suffering trial from the last 17 years.

6. He submits that the petitioners have already been exonerated in the departmental proceedings which were initiated pursuant to a complaint made by the complainant. He further submits that in such circumstances, the criminal complaint, in any case, cannot proceed further.

7. The complainant is present in person in Court today. On being asked, he states that he has received a sum of ₹4,00,000/- as compensation and that he is satisfied with the compensation so received. He further states that almost 17 years have passed since the occurring of the incident. He states that he does not wish to pursue any proceeding arising out of the subject complaint against the petitioners.

8. It is relevant to note that the adjudication or any other proceeding in regard to the same set of allegations, can continue along with the criminal proceedings and exoneration in one may not *ipso facto* result in the other proceedings being declared as nullity in every circumstance.

9. However, when two proceedings are initiated on the same set of allegations and are also dependent on the identical



evidence, the finding in any one will have a bearing on the other.

10. Undisputedly, the criminal complaint case pending adjudication arises out of the same incident for which the petitioners were subjected to departmental inquiry.

11. The Hon'ble Apex Court in *Ashoo Surendranath Tewari v. The Deputy Superintendent of Police, EOW, CBI & Anr. : Criminal Appeal No. 575/2020* has held as under:

"7. A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt....."

8. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22.12.2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code."

12. In the present case as well, nothing has been brought on record to show that the evidence collected during the course of investigation in the present case was not the same as was sought to be relied upon by the department.

13. Thus, considering that the petitioners have already been exonerated in the departmental proceedings where the standard of proof is somewhat lower, the petitioners are entitled for quashing of the present criminal complaint case against them as the same was registered on the same allegations.

14. It is further pertinent to note that Respondent No. 2 is present in Court and he states that he does not wish to proceed against the petitioners. He further submits that he is satisfied with the compensation amount so received, and has no remaining grievance against the petitioners.



15. In view of the above, this Court is of the opinion that the present case is fit for exercise of the power under Section 482 of the Code of Criminal Procedure, 1973.

16. In view of the above, CT No. 614783/2016 is quashed *qua* the petitioners, including all consequential proceedings arising therefrom.

17. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 21, 2024

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