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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 31.05.2024

+ W.P.(CRL.) 1615/2024

MD RUSTAM

..... Petitioner

Through: Mr.R.K.Shukla, Advocate with
petitioner in person.

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Ms.Nandita Rao, ASC (CRL) for State
with Mr.Amit Peshwani, Advocate
alongwith SI Ranvijay, P.S. Lahori
Gate.

Mr.Abhinav Kumar Srivastava,
Mr.Shakil Sheikh and Mr.Suraj
Kumar, Advocates with respondent
No.2 in person.

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. 15699/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P.(CRL.) 1615/2024

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. 185/2022, under Section 408 IPC, registered at P.S.: Lahori Gate.

2. Issue notice. Learned ASC for the State and learned counsel for respondent No. 2 along with respondent No. 2 appear on advance notice and



accept notice

3. In brief, as per the case of prosecution, present FIR was registered on 22.02.2022 on complaint of respondent No.2 (Mohd.Nasir) who alleged that petitioner was deputed for collecting a payment of sum Rs.5,00,000/- from his customers namely Amrik and Ankit, but after receiving the payment, petitioner failed to return back and his phone was also found to be switched off.

4. Learned counsel for petitioner submits that petitioner has been working with respondent No.2 as his employee for a period of thirteen years and has clean past antecedents. Further, amount of Rs.5,00,000/- has since been returned to respondent No.2, as observed in order dated 23.03.2022 passed by learned MM-09, Central District, Tis Hazari Courts, Delhi, at the stage of bail. He further submits that the aforesaid amount could not be returned back by petitioner due to some misunderstanding and the issues have been amicably resolved between the parties in terms of Settlement Deed dated 02.05.2024.

5. Learned ASC for the State submits that in view of amicable settlement between the parties, she has no objection in case the FIR in question is quashed.

6. Petitioner in the present case seeks to invoke the powers under Section 482 of the 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 generalized 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.

7. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

8. Petitioner and Respondent No. 2 are present in person and have been identified by SI Ranvijay, P.S. Lahori Gate. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 also submits that since all the disputes between the parties have been amicably settled, he has no objection in quashing of FIR.

9. Parties intend to put quietus to the proceedings arising out of minor issue of return of payment. The settlement shall promote harmony between the parties. The chances of conviction are bleak in view of settlement between the parties. Further, no past involvement of the petitioner has been



brought to the notice of this Court.

10. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 185/2022, under Section 408 IPC, registered at P.S.: Lahori Gate and proceedings emanating therefrom stand quashed.

11. In the facts and circumstances, instead of imposing the costs upon the petitioner, he is directed to plant 30 saplings of trees, which are upto 03 feet in height within the jurisdiction of P.S. Kotwali or Ring Road after getting in touch with the competent authority (i.e. Horticulture Department of MCD/DDA/ Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO/SHO, P.S. Kotwali/Lahori Gate. The photographs of planted saplings alongwith report of IO/SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings/trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of trees, the petitioners shall be liable to deposit cost of Rs. 30,000/- with the Delhi State Legal Services Authority.

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

A copy of this order be forwarded to the learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

MAY 31, 2024/v