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

+ **CRL.M.C. 6512/2024 & CRL.M.A. 24906/2024 (stay)**

NARESH KUMAR BANSAL

.....Petitioner

Through: Mr. Alok Bhachawat and Mr. Ishan
Jain, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Hitesh Vali, APP for the State
SI Jyoti PS Subzi Mandi

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

21.08.2024

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CRL.M.A. 24905/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.A. 24907/2024

1. For the reasons stated in the application, the same is allowed and delay of 45 days' in filing the accompanying petition stands condoned.
2. Application stands disposed of.

CRL.M.C. 6512/2024

1. This petition is filed seeking quashing of FIR No.35/2021 registered under Sections 354A/509 IPC and under Sections 8 & 10 of POCSO Act



(charges though were framed under Section 11(i) and 12 POCSO at P.S Subzi Mandi).

2. Connected FIR No.421/2021 at PS Subzi Mandi under Sections 354A/509/323 IPC was quashed by order dated 20th August 2024.

3. The complainant/ respondent no.2 in both the FIRs has stated that she does not wish to pursue the FIR proceedings considering that issues between them and the petitioner have been resolved. The issues arose in the background of a dispute on arrears of rent arising out of a tenancy.

4. Petitioner is the owner of the second floor property bearing number 2785, Gali Rajputana, Subzi Mandi, Delhi. One bedroom and kitchen out of the said property was let out to one Nitin Jain (late husband of respondent no.2) in 2019 for 11 months for rent of Rs.6,600/- per month. Even after expiry of lease, the family continued to stay in the rented accommodation, accepting the increase in monthly rent. However, arrears of rent accumulated. As per the petitioner, he made various complaints to the police. Nitin Jain, the husband of respondent no.2 passed away in 2021.

5. During the time when this demand of rental arrears was made, instant FIR No.35/2021 was registered. The incidence complained of was regarding conduct of the petitioner/landlord who was allegedly threatening the mother (respondent no.2) and daughter regarding rental payment. In the meanwhile, a civil suit was instituted by the petitioner/landlord for eviction, recovery of rent and damages. Respondent no.2 filed another written complaint after the institution of the suit, alleging that the petitioner was abusing them. Charge-sheets were filed in both the matters.

6. Subsequently, the suit was decreed in favour of petitioner and decretal amount of Rs.1,37,800/- was awarded for recovery of arrears of rent,



including future *mesne* profits and damages.

7. On 6th March 2024, when the matter was fixed for prosecution evidence, it was recorded that the matter has been settled between the parties and they would seek quashing in all the matters. Settlement Agreement dated 15th April 2024 was placed on record as per which a sum of Rs.45,000/- was to be paid to respondent no.2 as well as foregoing the decretal amount by the petitioner.

8. Considering that charges had been framed under Section 11(i) and 12 POCSO, the Court thought it fit to interact with both the complainant/mother and the minor daughter in Chamber, in order to ascertain the context in which the complaint, alleging offences under POCSO, had been moved. While the mother, who is a widow, stated that they have resolved the issues which arose out of tenancy dispute, the minor girl stated that the petitioner had made gestures at her, threatening to evict them from the tenanted premises, since rental was not paid and complaint was made on advice of other elders in the family. On the basis of this guidance, allegations under POCSO were made, and statement was also recorded.

9. Statement recorded under section 164 Cr.P.C. on behalf of minor child also exhibits that the petitioner used to come to their room and state that they should vacate the premises, since it was his house and would abuse them.

10. Both the mother and daughter were categorical and vehement in that they have resolved the issue of tenancy, have no further transaction with the petitioner, don't live in the rented premises anymore, wish to go ahead with their life and do not wish to pursue these proceedings any further to ensure



peace and harmony in their life.

11. Petitioner has also relied upon the following decisions of Coordinate Benches of this Court viz. ***Rohan Pandey v. State through SHO PS Palam Village & Anr*** CRL.M.C. 5392/2023 *dod* 21.09.2023; ***Abhay Kumar v. State NCT of Delhi & Anr.*** 2023 SCC OnLine Del 4450; and ***Tofik Alam & Ors v. State (NCT of Delhi) & Anr.*** 2023 SCC OnLine Del 3383.

12. This Court is aware of the decisions of the Supreme Court in ***Gian Singh v. State of Punjab & Anr.*** (2012) 10 SCC 303 and ***Narinder Singh & Ors. v. State of Punjab & Anr.*** (2014) 6 SCC 466.

13. In ***Narinder Singh*** (*supra*) it has been stated that, “*Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above.*”

14. Quashing of proceedings would meet the ends of justice and prevent the abuse of process of Court considering the totality of facts and circumstances as noted above and considering that the issues arose out of a pre-existing landlord-tenant relationship between the parties.

15. Considering the peculiar facts and circumstances in the present case particularly since the allegations arose in the context of a civil dispute of tenancy, and the fact that the allegations under POCSO were made under a misunderstanding, the Court considers it fit to quash the present FIR.

16. Considering the above settlement between the parties and the chances of conviction of the petitioners being remote and bleak, there is no use continuing with proceedings of the present FIR as it would be a misuse of the process of the Court and an unnecessary burden on the State exchequer.



Accordingly, the petition is allowed. Consequently, the FIR No.35/2021 at P.S Subzi Mandi and proceedings emanating therefrom are quashed.

17. Parties shall abide by the terms of settlement.
18. Respondent no.2 confirms that she has received Rs. 45,000/-.
19. Petitioner had already been directed to deposit costs of Rs. 10,000/- with the Delhi Police Welfare Fund by order dated 20th August 2024 in CRL.M.C. 6452/2024.
20. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
21. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 21, 2024/sm/na