



2024:DHC:7766



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 07.10.2024

+ CRL.M.C. 7924/2024

USHA KAUSHAL

.....Petitioner

Through: Mr. Lakhmi Chand, Mr. Mukesh Koli
and Ms. Yogita,, Advs. alongwith
petitioner in person.

versus

STATE OF NCT DELHI THROUGH S.H.O., P.S. TILAK NAGAR,
DISTRICT WEST DELHI & ANR.Respondents

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Sunil, PS Tilak Nagar.
Mr. Mayank, Mr. Dhruv Rawat and
Mr. Balwant Singh, Advs. for R-2
alongwith R-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. 30219/2024**

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 7924/2024

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for quashing of FIR No. 235/2023 under Section 420 IPC registered at P.S.: Tilak Nagar and proceedings emanating therefrom.

2. Issue notice. Learned APP for the State and learned counsel for



respondent No.2 alongwith R-2 in person appear on advance notice and accept notice.

3. In brief, as per the case of prosecution, FIR was registered on 18.05.2023, on complaint of respondent No. 2, who alleged that petitioner failed to handover the property in dispute to respondent No.2, despite execution of Mortgage Agreement dated 24.11.2020 and payment of sum of Rs. 4 lacs to the petitioner.

4. Learned counsel for the petitioner submits that petitioner was unable to handover the premises, since the same was in possession of tenant and despite efforts, the tenant could not be evicted from the property. He further submits that disputes between the parties have since been amicably settled in terms of MoU dated 08.09.2024, for an amount of Rs. 5,00,000/-, including the amount of Rs. 4,00,000/- which has been earlier handed over by the petitioner to respondent no. 2.

5. Balance amount of Rs.1,00,000/- has been paid to respondent No. 2 today through DD No. 083808 dated 04.10.2024 drawn on State Bank of India, Tilak Nagar in favour of respondent No. 2.

6. Respondent No. 2, who is present in person, submits that in view of settlement between the parties, she has no further grievance in this regard and nothing remains to be further adjudicated upon between the parties.

7. Learned APP for the State submits that in view of amicable settlement between the parties and receipt of settlement amount by respondent No. 2, she has no objection in case the FIR in question is quashed.

8. Petitioners in the present case seek to invoke the powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. 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.

9. 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 528 BNSS 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.

10. Petitioner and respondent No. 2 are present in person and have been identified by SI Sunil, PS: Tilak Nagar. 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 who is present in person



submits that all the disputes between the parties have been amicably settled and she has received a sum of Rs. 5,00,000/- as agreed between them.

11. Petitioners and respondent No. 2 intend to put quietus to the proceedings arising out of property dispute. The settlement shall promote harmony between the parties and permit them to move forward in life. Also the chances of conviction are bleak in view of amicable settlement between the parties. Further, no past involvement of the petitioner has been brought to the notice of this Court.

12. 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. 235/2023 under Section 420 IPC registered at P.S.: Tilak Nagar and proceedings emanating therefrom stand quashed.

13. In the facts and circumstances, instead of imposing the costs upon the petitioner, petitioner is directed to plant 20 saplings of Neem / Jamun trees, which are upto 03 feet in height in the area of PS: Tilak Nagar 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 concerned IO / SHO, PS: Tilak Nagar. 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 petitioner shall be liable to deposit cost of Rs. 20,000/- with the Delhi State Legal Services



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Authority.

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.

ANOOP KUMAR MENDIRATTA, J

OCTOBER 7, 2024

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