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

+ **CRL.M.C. 9706/2024**

DEEP KUMAR

.....Petitioner

Through: Mr. Krishan Kumar Sharma with Mr. Ashish Arya, Mr. Gaurav Pal Singh, Advocates and petitioner in court.

versus

STATE OF G.N.C.T OF DELHI & ANR.

.....Respondents

Through: Mr. Hitesh Vali, APP for the State with SI Yashveer Sharma, P.S.: Govindpuri.

Mr. Rahul Kumar, Advocate for R2 and R2 via video-conferencing.

R2's power of attorney holder in court.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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10.12.2024

CRL.M.A. 37226/2024 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

CRL.M.C. 9706/2024

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks quashing of case FIR No. 0305/2021 dated 04.05.2021 registered under section 420 of the Indian Penal Code, 1860 ('IPC') at P.S.: Govind Puri, Delhi ('subject FIR').

2. The petition is premised on an oral settlement that is stated to have been reached between the contesting parties, whereby they have resolved the matter amicably.



3. The subject FIR arises from a transaction for supply of oxygen concentrators by the petitioner (seller) to respondent No.2 (buyer) during the then prevailing pandemic. Respondent No.2 - Pranksha Shukla - is stated to have paid about Rs.3,00,000/- to the petitioner for supply of 03 oxygen concentrators, of which the last one was never supplied by the petitioner; and, as per the subject FIR, by reason of non-supply of the oxygen concentrator, a relative of respondent No.2 passed-away.
4. Respondent No.2 is presently residing in Australia and has appointed her uncle - Sanjeev Sharma - as her attorney by way of Power of Attorney dated 23.11.2024. A copy of the power the attorney is appended to the present petition.
5. The petitioner and respondent's 2 attorney are present in court. Respondent No.2 has also joined the proceedings *via* video-conferencing from Australia. Their credentials have been verified and they have also been identified by Investigating Officer and by their respective counsel.
6. The court has interacted with respondent No.2 at length. She submits that she does not wish to pursue any further proceedings in the case by reason of the delay in the matter; and since she has subsequently moved to Australia, and is unable pursue the matter any further.
7. Upon being queried, the petitioner has attempted to explain the reason why he was unable to supply the third oxygen concentrator at the relevant time; and he states that he is willing to pay/refund to respondent No.2 a sum of Rs.1,00,000/- as compensation towards quashing of the subject FIR.



8. Respondent No.2 is agreeable to aforesaid course of action. She submits that she is unable to participate any further in the present proceedings but her attorney is available for such purpose.
9. Mr. Hitesh Vali, learned APP appearing on behalf of the State submits, that considering the circumstances in which the offence was committed, at a time when oxygen concentrators were in much demand, it is evident that the petitioner has not just cheated respondent No. 2 but is also liable for having committed extortion at a time when people's lives depended on the supply of oxygen concentrators. That said, learned APP leaves it to the court to pass appropriate orders.
10. On an overall conspectus of the facts and circumstances of the case, in particular based on what has been said by respondent No. 2, and in line with the law laid down by the Supreme Court in **Gian Singh vs. State of Punjab & Anr.** reported as (2012) 10 SCC 303 as also in **Narinder Singh & Ors. vs. State of Punjab & Anr.** reported as (2014) 6 SCC 466, this court is of the view that the present case requires to be quashed based on the consent of respondent No. 2.
11. Accordingly, FIR No. 0305/2021 dated 04.05.2021 registered under section 420 IPC at P.S.: Govind Puri, Delhi is quashed. All proceedings arising therefrom also stand closed.
12. However, the quashing shall be *subject to* the petitioner paying to respondent No.2, by way of atonement, the sum of Rs.1,00,000/- as compensation, within 02 weeks. The petitioner is directed to place on record proof of payment, within 01 week thereafter.



13. For the above purpose, respondent No.2 is directed to provide to the petitioner (through her attorney), her bank account details in which the compensation amount is to be transferred.
14. The Registry is directed to verify compliance; and to re-list the matter in the event of any default.
15. The petition stands disposed-of in the above terms.
16. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 10, 2024

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