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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 3339/2008

CHOUDHARY SHIVINDER SINGH & ANR.

..... Petitioner

Through Mr. Rakesh Kr. Khanna, Sr. Adv. with
Mr. Vinay Kr. Garg, Advocate

Versus

STATE

..... Respondent

Through Mr. M.N. Dudeja, APP

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+ CRL.M.C. 3841/2008

MUKESH CHOUDHARY & ORS.

..... Petitioner

Through Mr. Rakesh Kr. Khanna, Sr. Adv.
with Mr. Vinay Kr. Garg, Advocate

versus

STATE & ORS.

..... Respondent

Through Mr. M.N. Dudeja, APP

CORAM:

HON'BLE MR. JUSTICE M.L. MEHTA

ORDER

31.01.2012

These are two petitions filed by Mukesh Choudhary and his parents and other family members against his erstwhile wife Savita Choudhary and his brother in law Abhimanyu Sanga.

Petitioners in M.C. No. 3339/2008 namely Choudhary Shivinder Singh and Mrs. Kanta Choudhary are the parents of Mukesh Choudhary.

Petitioners in M.C. No. 3841/2008 are Mukesh Choudhary and his other relatives.

Initially a complaint was filed by Savita Choudhary through her brother Abhimanyu Sanga against Mukesh Choudhary in Calcutta. Vide order of the Supreme Court, the same was transferred to Delhi Courts on 3rd

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January 2007. The case at Delhi was transferred to the Court of ACMM, Delhi. Savita Choudhary had also filed a Civil Suit being CS(OS) 1196/2003 through her brother Abhimanyu Sanga in Delhi High Court. In the said Civil Suit an application under Order 32 Rule 1 CPC was filed seeking withdrawal of the suit on the ground that a settlement was arrived at between Savita Choudhary and Mukesh Choudhary at Toronto on 9th March, 2004. In the proceedings of the Civil Suits the counsel appearing for the petitioner i.e. Savita Choudhary sought repeated adjournments for taking steps for withdrawal of the criminal complaint that was filed in Calcutta and was transferred to Delhi. While disposing of the application under Order 23 Rule I CPC, this Court specifically recorded that the plaintiff (Savita Choudhary) had sought repeated adjournments since 09.09.2004 to file an affidavit withdrawing the criminal case, but inspite of repeated opportunities granted, the same was not withdrawn. The Civil Suit was permitted to be withdrawn on certain terms of costs.

I have gone through the element of agreement that was arrived at between Mukesh Choudhary and Savita Choudhary in Toronto. The sum and substance of the said settlement is that both parties were to lead independent life and were not to claim anything against each other. They had relieved each-other of all their claims and disputes vide the said settlement.

It is seen from the record that notices have been issued to respondent No. 2 and 3 namely Savita Choudhary and Abhimanyu Sanga repeatedly by this Court and the notices have been returned with the reports of either 'not claimed' or 'premises locked' or 'avoiding' or 'not residing at the given address'. Ultimately service was effected upon these respondents by way of publication in newspaper 'The Statesman' on 15th February 2011. They have not chosen to put their presence despite the service of notice through this mode. From all these, it appears that respondents are not interested to pursue the complaint after the settlement arrived at Toronto and after the withdrawal

of the Civil Suit to their satisfaction.

It is informed that they have never appeared before the trial court at Calcutta or at Delhi after the matter was transferred.

Having regard to the entire facts, I am of the view that no purpose will be served by continuing this almost dead litigations.

In view of this, I am persuaded to allow both of these petitions and hereby quash FIR No. 67 dated 2.10.2002 under section 120B, 498A, 406, 307, 313 and 315 IPC registered pursuant to the orders of CMM, Kolkatta, in Complaint Case No. C/4139 of 2002 titled as "*Abhimanyu Sanga Vs. Mukesh Choudhary and Others*" and all proceeding arising therefrom.

These petitions stand disposed of.



M.L. MEHTA, J

JANUARY 31, 2012
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