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

+ CRL.A. 659/2026& CRL.M.As. 21026-28/2026

PAPPU SAH TRADING AS M/S. GUPTA COSMETICS
& ORS.

.....Appellants

Through: Mr. Sachin Gupta, Mr. Rajat Jain,
Mr. Rohit Pradhan, Ms. Prashansa
and Ms. Mahima, Advocates.

versus

GUDDU GUPTA TRADING AS M/S. LEELA
COSMETICS

.....Respondent

Through: Ms. Suman Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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20.07.2026

1. The appellants assail an order dated 02.05.2026, passed by the Commercial Court in CS(COMM.) No. 41/2025, by which an application filed by them under Section 379 read with Section 215(1)(b) of Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"], for initiation of proceedings under Sections 227, 228, 229, 233, 236, 237, 239, 246 and 258 of the Bharatiya Nyaya Sanhita, 2023, against the respondent, was dismissed.
2. Issue notice. Ms. Suman Gupta, learned counsel, accepts notice on behalf of the respondent.
3. The appellants were the defendants in a suit filed by the respondent before the Commercial Court in CS (COMM.) 41/2025. In the course of proceedings before the Commercial Court, the appellants filed the



aforesaid application, contending that the invoices filed by the respondent were false.

4. By a judgment dated 02.05.2026, the Commercial Court decreed the suit in favour of the respondent, and by a separate order dated 02.05.2026, dismissed the said application.

5. Mr. Sachin Gupta, learned counsel for the appellants, submits that the appellants have filed an appeal [RFA(COMM) 404/2026] against the said decree. In the said appeal, the Division Bench of this Court *vide* order dated 09.07.2026 has noticed that one of the issues framed in the suit was as follows:

“(4) Whether the plaintiff has made false statements on oath or has filed false affidavit of truth?...OPD”

6. Notice has been issued only on the aforesaid issue. The question of whether the respondent had made false statement on oath or filed a false affidavit of proof is, therefore, pending consideration before the Division Bench.

7. In these circumstances, Mr. Sachin Gupta seeks permission to withdraw this appeal at this stage, subject to the decision of the Division Bench. He states that the appellants will move the appropriate Court afresh, in the event the Division Bench comes to a finding in their favour on this point.

8. Ms. Suman Gupta has no objection to disposal of the appeal on this basis.

9. The appeal, alongwith pending applications, is therefore, disposed of as withdrawn, in terms of the above.

10. Subject to the orders of the Division Bench, the appellants will be



at liberty to move the appropriate Court afresh, in the event the Division Bench renders a finding in their favour, in the pending appeal, i.e. RFA(COMM) 404/2026.

11. It is made clear that this Court has not made any observation on the merits of the case.

PRATEEK JALAN, J

JULY 20, 2026
SS/MK/