

HIGH COURT OF DELHI AT NEW DELHI

W.P (Crl.) No. 919/2009

Reserved on: 11.08.2010

Date of Decision: 09.09.2010

NAGESHWAR PANDEY & ORS. ... PETITIONERS

Through: Mr. Anup Kumar Sinha, Adv. for P-1.
Mr. K.T.S. Tulsi, Sr. Adv. with Mr. V.K.
Mehra, Adv. for P- 2 to 5.

versus

THE STATE ... RESPONDENT

Through: Mr. Saleem Ahmed, ASC for the State
with IO/Inspector Keshav Mathur, SIT/Crime
Branch.
Mr. Sushail Dutt with Mr. Azhar Alam and Mr.
Vikram Singh, Advs. for Anirva Developers Pvt.
Ltd./applicant.
Mr. Pawan Narang, Adv. for Mr. Baleswar
Sharma.
Mr. Vijay Aggarwal, Adv. for Mr. Ravi Arora,
Director

CORAM:
HON'BLE MR. JUSTICE S.L. BHAYANA

1. Whether reporters of local paper may be allowed to see the judgment? Yes
2. To be referred to the reporter or not? Yes
3. Whether the judgment should be referred in the Digest? Yes

S.L. BHAYANA,J

This petition has been moved by the petitioners under Section 482 Cr.P.C for quashing of FIR No. 131/2008 u/s 406/420/409/120B IPC of EOW, Distt. C & R, New Delhi.

2. It is submitted by learned counsel for the applicant that petitioner no.1 is the Ex-Director of applicant company and petitioner nos. 2 to 5 are the accused persons, who have settled the matter with each other amicably and now they want that the FIR No.131/2008 be quashed. However, learned counsel for the

applicant, M/s Anirva Developers Pvt. Ltd. submits that petitioner no.1, Nageshwar Pandey no more the complainant in this case and that they are the affected parties, who have purchased the land in question. In view of this, an application bearing no. Crl. M.A.9226/2009 has been moved by the applicant, M/s Anirva Developers Pvt. Ltd. under Section 482 Cr.P.C for impleadment to pursue the present writ petition.

3. Arguments heard.

4. I have gone through the records. I find that the accused persons namely Ravindra C.P. Navelkar, Yashpal Raikar, Smt. Fermeena Khaunte and Pradeep Khaunte had filed the bail application before this court bearing Bail Appl. Nos. 314/2009 & 315/2009. During the hearing of the said bail applications, the following orders were passed:

“ 1. Petitioners are seeking bail in FIR No. 131/2008, under Sections 406/420/409/120-B of the IPC, registered at Police Station Economic Offence Wing with Crime and Railways, New Delhi.

2. Learned Senior Counsel for the petitioner states that on the strength of an order of Mumbai High Court, petitioners were entitled to sell the land in question and the possession of the same was handed over to the complainant/first-informant on 22nd January, 2009, and that petitioners are in custody since 9th January, 2009.

3. Notice.

4. Mr. R.N. Vats, learned Additional Public Prosecutor accepts notice on behalf of the State and seeks time to file status report.

5. At this stage, learned Senior Counsel for the petitioners states that this matter can be resolved through the medium of Delhi High Court Conciliation and Mediation Centre. Learned Counsel for the complainant/first-informant states that he is also willing to go to the medium of Delhi High Court Conciliation and Mediation Centre for amicable settlement of the dispute, which is the subject matter of the FIR in question.

6. It is agreed upon by both the sides that for this purpose, the petitioner be granted interim bail as in interim measure to enable them to settle the dispute in question.

7. Without commenting on the merits of the case, the petitioners Yashpal Raikar, Ravindra C.P. Navelkar, Farmeena Khaunte and Pradeep J. Khaunte, are admitted to bail on their furnishing bail bond in the sum of Rupees fifty thousand each with one surety of the like amount, to the satisfaction of the concerned court.

8. Let both sides appear before the High Court Conciliation and Mediation Centre on 25th February, 2009 at 3.00 PM and thereafter, if required.

9. List this matter for hearing on 24th March, 2009.

10. Copy of this order be given dasti and sent to the trial court for compliance.

Thereafter, on 26.2.2009 the following order was passed by this Court:

“Heard.

Allowed.

Presence of Mr. Suhail Dutt with Mr. Vikas Tiwari for M/s Anirva Developers Pvt. Ltd. and of Sh. K.T.S. Tulsi, Senior Counsel for the petitioners be incorporated in the order of 17th February, 2009.

It goes without saying that M/s Anirva Developers Pvt. Ltd. would participate in the conciliation proceedings before Delhi High Court conciliation and Mediation Centre. “

Consequently, on 24.3.2009, the following order was passed by this Court:

“ Petitioners “ Petitioners are seeking bail in FIR No. 131/2008, under Sections 406/420/409/120B of the IPC, registered at police station Economic Offence Wing with Crime and Railways, New Delhi.

Learned Senior Counsel for the petitioners state that this matter stand settled with M/s Anirva Developers Pvt. Ltd. before the Delhi High Court Mediation and Conciliation Centre.

Notice be issued to the aforesaid Forum for giving a report in this matter.

Mr. R.N. Vats, learned Additional Public Prosecutor for the State submits that the petitioners have not joined the investigation of this case.

Learned Senior Counsel for the petitioners state that the petitioners are ready to join the investigation and are ready to appear before Inspector Ramesh Chander, Investigating Officer of this case, on 25th March, 2009 at 4.00 PM and thereafter, as and when required. “

5. I have also gone through the Agreement of Settlement, which is exhibited 'Ex. PX' (page 96 of Bail Appl. No. 314/2009), wherein petitioner no.2, Sh. Ravindra Charadchandra Porob Navelkar is the First Party and the applicant M/s Anirva Developers Pvt. Ltd. and M/s Aruna Infracon Pvt. Ltd. are the Second and Third Parties respectively. On perusal of Agreement of Settlement 'Ex.PX', it is clear that the settlement had taken place between the petitioners and the applicant and the cheque of Rs.35 crores was also issued to the applicant (second party) by petitioner no.2 (first party).

6. It will not be out of place to mention that Ravindra C.P. Navelkar and Yashpal Raikar had filed the writ petition bearing no. 1373/2008 before this Court, in which the State was respondent no.1 and respondent no. 2 was M/s Anirva Developers Pvt. Ltd. (applicant herein). This petition has been filed by the petitioners under Section 482 Cr.P.C, wherein it is categorically mentioned that the petitioners have settled all the disputes with respondent no.2, Anirva Developers Pvt. Ltd. and have given cheques of Rs.35 crores to respondent no.2 and therefore they prayed for quashing of FIR No. 131/2008 filed against them.

7. On considering the aforementioned facts and circumstances, it has become clear that petitioner no.1, Nageshwar Pandey is not the complainant in this case and in fact, the affected party is the

applicant, M/s Anirva Developers Pvt. Ltd. with whom the accused persons have entered into a settlement before the Delhi High Court Mediation and Conciliation Centre.

8. It is further noted that the accused petitioner nos. 2 to 5 had given cheques of Rs.35 crores to M/s Anirva Developers Pvt. Ltd. towards full and final settlement of all the claims, but the same were dishonoured. Consequently, M/s Anirva Developers Pvt. Ltd. moved applications for cancellation of interim bail of petitioner nos. 2 to 5, which was granted by this Court. So, the claim of petitioner no.1 that he is the actual person, who is the complainant in this case, has no basis and there is no ground for quashing of FIR No. 131/2008 of EOW, Distt. C & R, New Delhi is made out. In fact, petitioner no.1, Nageshwar Pandey is not the complainant in this case but rather M/s Anirva Developers Pvt. Ltd. who are the affected parties, have entered into the shoes of complainant and they have got the right to pursue the matter.

9. In view of this, I find no merit in the writ petition. The same is accordingly dismissed.

S.L.BHAYANA,J

SEPTEMBER 09, 2010

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