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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 3489/2011

Vijay Narain Pandey & An.

..... Petitioners

Through:

Mr. Rajiv Nayar, Sr. Adv. with
Ms. Priyanka Gupta, Advocate

versus

The State (NCT OF DELHI)

..... Respondent

Through:

Ms. Fizani Husain, APP for State
with SI Arun Kumar

CORAM:

HON'BLE MR. JUSTICE M.L. MEHTA

ORDER

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17.11.2011

Crl. MA 12382/2011 (exemption)

Exemption allowed subject to all just exceptions.

CRL.M.C. 3489/2011

This petition under Section 482 Cr.P.C has been preferred by the petitioners for quashing of FIR No.374/1994 under Sections 406/409/418/420/421/422/423/34 IPC registered with Police Station Lajpat Nagar.

The petitioners herein are the Secretary and President of Raj Laxmi Cooperative Group Housing Society which had advertised and offered built up flats to the public at large. As many as 300 members of the public deposited various amounts. Representations were given by the petitioners that the possession of the flats would be given at the earliest and that the land for this purpose has already been allotted in Dwarka by DDA. The investigation revealed that the petitioners were to deposit about Rs. 1.25 crore with DDA against the land allotted, but since the

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petitioners failed to do so despite having collected the money from the public at large, the allotment of land was cancelled by DDA. It was also revealed during investigation that even after cancellation of allotment of land, the petitioners continued to collect money from the public. Both of these petitioners are joint signatories of the account of the society. It was also revealed that huge amount of money of the society was diverted to the account of M/s Shri Ram Finance and Housing Investments, which was petitioners' own concern.

I have heard the rival contentions of the parties. With regard to the allegations against the petitioners having diverted the funds of the society to their own concern, the learned senior counsel for the petitioners submitted that the same was pursuant to the resolution passed by the members of the society in its General Body Meeting held on 31.3.1991. It was owing to this fact and on account of non payment of some members the same could not be deposited with the DDA and consequent to that the allotment of the land was cancelled. It was also submitted by learned senior counsel that the amounts have been returned back to most of the members after registration of instant case and so there was no intention to commit the offences of cheating or breach of trust on the part of the petitioners. It was also submitted that the sum of Rs.60 lac was deposited pursuant to the order of this Court in the year 1996. He further submitted that all the four complainants have filed their affidavits to the effect that they have received their amounts and do not intend to pursue their complaint qua petitioners and that they have no objection in quashing of instant FIR.

Per contra, learned APP for the State vehemently opposed the petition stating that the allegations against the petitioners were of

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conspiracy and of committing cheating and misappropriation of funds. She submitted, and to my view rightly so, that the offences which were committed by petitioners were against the general public at large and it was not only the four complainants, who allegedly gave their affidavits, were cheated and were now satisfied on account of having received their refund of amount, but there are as many as 300 investors. Further it is also noted that the complainants are not only those with whom the offence is alleged to have been compromised, but it is reported by the police that there are as many as 18 complainants and there are as many as 26 witnesses as per available record. In the factual situation, seeking of quashing of FIR on account of petitioners having allegedly compromised with four of them, was another tactic of getting away from the fraud, forgery and misappropriation which appear to have been committed by the petitioners herein against the public at large. It was not only that the charge-sheet was already filed, but the charges against the petitioners have already been framed and the revision petition against framing of charge filed by the petitioners has already been dismissed by the learned ASJ vide well reasoned order. Further the case has already been proceeded for trial and some witnesses have already been examined before the trial court.

Keeping in view the foregoing facts and circumstances, I do not see any reason to quash the present FIR. The petition is hereby dismissed with no orders as to costs.


M.L. MEHTA, J

NOVEMBER 17, 2011
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