



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : Crl. Pet./13/2024

M/S TDI INFRASTRUCTURE LTD. AND 6 ORS
2ND FLOOR, MAHINDRA TOWERS 2A,
BHIKAJI CAMA PLACE, NEW DELHI- 110066
REPRESENTED BY SH. VED PRAKASH (PETITIONER NO.3)
2: SHRI RAVINDRA KUMAR TANEJA

S/O LATE SH. N. D. TANEJA
R/O 9
KASTURBA GANDHI MARG

NEW DELHI 110001

3: SHRI VED PRAKESH

S/O LATE SH. ASHA NAND

R/O A-91
WEST PATEL NAGAR

NEW DELHI 110008

4: SHRI D.N TANEJA

S/O LATE SH. GHANSHYAM DASS TANEJA

R/O 7
SOUTH PATEL NAGAR
NEW DELHI 110008

5: SHRI KAMAL TANEJA

S/O SH. D.N TANEJA

R/O 7

SOUTH PATEL NAGAR

NEW DELHI 110008

6: SUMAN CHAWLA

R/O CHAWLA SPRAY CENTRE

NEAR RAM LILA GROUND

MANDI NO.1

ABOHAR

PUNJAB 152116

7: CHITWAN GANDHI

R/O CHAWLA SPRAY CENTRE

NEAR RAM LILA GROUND

MANDI NO.1

ABOHAR

PUNJAB 15211

VERSUS

THE STATE OF NAGALAND AND ANR.
REPRESENTED BY PUBLIC PROSECUTOR,
GUWAHATI HIGH COURT, KOHIMA, NAGALAND
2:COLONEL SANJEEV MALHOTRA

S/O LATE DR. S.M. MALHOTRA

R/O H.NO-43

SEMATILLA COLONY

DIMAPUR

NAGALAND 79711

Advocate for the Petitioner : KAMAL RATHU

Advocate for the Respondent : P.P, NAGALAND

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 25-07-2024

Heard Mr. Kamal Rathee, learned counsel for the petitioners. Also heard Ms. S. Mere, learned P.P. for the State and Mr. Vinnoka Achumi, learned counsel for the respondent No.2.

2. This is an application under Section 482 and 483 of the Code of Criminal Procedure, 1973 praying for quashing of the FIR No. 15/2024 dated 04.03.2024 and the criminal proceeding of GR Case No. 105/2024 arising out of Sub Urban P.S, Dimapur Case No. 10/2024 under section 120B/409/420 IPC.

3. The case of the petitioners in brief is that the petitioner No. 1 is a company engaged in the business of Real Estate Project in NCR Region, is a company registered under the provisions of the Company's Act, 1956 as amended up to date having its corporate office at Mahindra Towers, Bhikaji Cama Place, New Delhi. The petitioner No.1 is in business of Real Estate Development in form of integrated township, with the name of TDI City, comprising of residential, institutional and commercial plot of various dimensions residential apartments, villas, and commercial malls and multiplexes and independent multistoried commercial and group housing projects. The petitioner is carrying on this development in various parts of North and Central India.

4. The petitioner No. 1 was issued a license by the Director of

Town and Country Planning ("DTCP") Haryana in order to enable the petitioners to develop a residential colony township under the name "TDI City" in Kundli, Sonapat, Haryana ("Project") which spread over 1100 acres of land at Kundli, Sonapat (Haryana). The said township consists of residential, commercial, and institutional plots of various dimensions under various names/configurations, malls, etc.

5. That on 06.09.2005, petitioner nos. 6 and 7 expressed their interest to book a residential plot measuring 350 Sq.Yard, in the aforementioned project of the petitioner company, i.e., "TDI City" at Kundi, Sonapat, Haryana at the rate of Rs. 5000 per sq yard (along with statutory charges) by filing an "Advance Registration Form". That along with the "Advance Registration Form" a draft for Rs. 5,15,375/- drawn on the State Bank of Patiala as "Registration Deposit". Thereafter an allotment of residential plot No. F-614 was done in favour of petitioner nos. 6 and 7 on 15.01.2006.

6. That as per the payment plan, the payments were to be made by the petitioner Nos. 6 and 7. They paid an amount of Rs. 6,57,000/- as part payment towards the basic sale price Rs. 3,80,500/-) and EDC charges (Rs. 2,76,500/-) of the plot vide Cheque No. 830352, dated 07.02.2007, drawn on the Punjab National Bank, Rs. 4,10,375/- by way of draft dated 07.02.2007, bearing No. 300956, drawn on Punjab and Sind Bank, Rs. 2,68,750/- vide cheque bearing no. 830354, drawn on Punjab National Bank. Thus, making the total payments of Rs. 18,51,500/-

7. That on 10.12.2007, on request of petitioner Nos. 6 and 7 and respondent No. 2, the allotment of said residential plot was

transferred to the respondent No. 2(informant) as he has purchased the allotment of said plot from the respondent No. 6. As such, the respondent No. 2(informant) out of his own volition and after exercising due diligence and caution, purchased the said allotment of plot from the erstwhile owners (petitioner No.6).

8. That the last installment of Rs. 3,05,375/- was paid by the subsequent allottee respondent No, 2 vide cheque no. 297022. Thus, in total, the company had received Rs. 21,56,875/- towards part sale consideration of the said plot.

9. That for reasons beyond the control of the Company, the possession of the plot could not be delivered to Respondent No.2 as stipulated. It is submitted that a delay was occasioned on transfer of possession of the plot of the respondent No. 2, as the patches of land where plot of land allotted to the respondent No. 2 remained undeveloped due to non-handing over of possession of land by the erstwhile land owners, though entitlement in the land was passed to the petitioner's company.

10. However, in the meantime, the respondent No. 2 (complainant) filed a complaint at Sub Urban Police Station, Dimapur against all the petitioners and basing on which a case was registered at Sub Urban PS, Dimapur under sections 409/420/120B of IPC and investigated into.

11. The learned counsel for the petitioners submits that in reply to the notice issued to the petitioners under section 41 A of Cr.P.C, the petitioners have replied and all requisite information and

documents were provided to the I.O of the case.

12. However, during the pendency of the investigation of the above PS case, the matter was amicably settled between the petitioners and the respondent No. 2 out of the Court which arose due to delay in handing over of possession of the said plot and have executed a settlement deed governing the deeds of settlement between the petitioners and the respondent No. 2. In terms of the settlement arrived at, the petitioner's company has to pay the amount of Rs. 1,51,00,000/- to the respondent No. 2, towards full and final settlement of all the disputes between the parties. The said amount has been paid in two installments, i.e., Rs. 1,00,00,000/- on 10.04.2024 by Demand Draft No. 281897 and the remaining amount of Rs. 51,00,000/- on 03.06.2024 at Kohima to which the respondent No. 2 has duly acknowledged by filing affidavit in support of the petitioners.

13. The learned counsel for the petitioners prays for quashing and setting aside of the impugned FIR No. 15/2024 dated 04.03.2024 and the criminal proceeding of GR No. 105/2024 registered at Sub Urban PS, Dimapur, Nagaland registered for offence under section 409/420/120B of IPC pending disposal before the Chief Judicial Magistrate Dimapur, Nagaland on the ground that the respondent No. 2 (informant) has executed the settlement dated 16.04.2024 with the petitioner No. 1's company; that the said FIR was lodged due to civil dispute of delay in handing over the possession of the allotted unit by the petitioner No. 1 to the respondent No. 2; that the said civil dispute has amicably been settled between the parties by executing a settlement deed dated

16.04.2024 by the petitioner No. 1's company and the respondent No. 2 (informant); and that in terms of the settlement deed dated 16.04.2021 entered into between the petitioner No. 1's company and the respondent no. 2 (informant) a total sum of Rs. 1,51,00,000/- has been duly paid to the respondent No. 2 (informant) which includes the deposit amount as well as the compensation of full and final settlement amount of the claims of respondent No. 2 (informant).

14. In support of his submission, the learned counsel for the petitioners relied upon the decision of the Hon'ble Supreme Court in ***B.S. Joshi Vs. State of Haryana*** reported in **(2003) 4 SCC 675** whereby the Hon'ble Supreme Court has upheld the powers of the Hon'ble High Court under section 482 to quash the criminal proceedings where the dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably.

15. The learned counsel for the petitioners also relied upon the decision of the Hon'ble Supreme Court in the case of ***Shiji @ Pappu V. Radhika*** reported in **(2011) CJ (SC) 239** whereby the Hon'ble Supreme Court has scrutinized the legal position in case of compromise in criminal cases in which the dispute was private in nature and continuation of proceeding will be sheer abuse of process of law and in this context the technicality should not be allowed to stand in the way of quashing criminal proceedings.

16. The learned counsel for the respondent No. 2 (informant) Mr. Vinnoka Achumi while referring to the affidavit filed by the

respondent No. 2 (informant) in support of the petitioners submits that the case leading to filing of the present FIR is that, the respondent No.2 purchased a residential plot No. F-614 measuring 350 Sq. Yds from erstwhile allottee Mrs. Suman Chawla (respondent No. 6) wherein necessary formalities and payments had been done way back in 2009. However, being aggrieved by the delay in handing over the possession of the plot, the respondent no. 2(informant) lodged the above FIR against the petitioners. The learned counsel for the respondent No. 2 submits that however, subsequent to the filing of the said FIR, the parties have amicably settled the matter and the petitioners had agreed to pay the amount of Rs. 1,51,00,000/- as full and final settlement. It is further submitted that the petitioners have already paid the amount of Rs. 1,00,00,000/- by Demand Draft dated 10.04.2024, and the remaining amount of Rs. 51,00,000/- by Demand Draft dated 10.04.2024 and submits that a memorandum of settlement was executed on 16.04.2024. The learned counsel for the respondent No. 2 (informant) further submits that the above settlement of Rs. 1,51,00,000/- being the full and final settlement has been duly received and acknowledged by the respondent No. 2(informant).

17. The learned counsel for the respondent No. 2 further submits that since the petitioners and the respondent No. 2 have come to a mutual settlement by executing memorandum of settlement which was executed on 16.04.2024 at New Delhi, the respondent No. 2 (informant) does not have any further grievance against the petitioners and as such he does not have any objection in quashing the aforesaid FIR lodged against the petitioners.

18. Ms. S. Mere, learned PP for the State of Nagaland while referring to the CD and the Status report submitted by the I.O of the case submits that in the instant case although the respondent No. 2(informant) had purchased the residential plot way back in 2009, however, the respondent No. 2 (informant) have adequately been compensated and paid a sum of Rs. 1, 51,00,000/-, being the full and final settlement of the claim and executed a memorandum of settlement deed with the petitioners on 16.04.2024. She further submits that it was a civil dispute and the matter has been now settled between the parties outside the Court. Under the circumstances, she does not have any objection in quashing of the aforesaid FIR.

19. I have heard the learned counsels for the parties andalso perused and considered the documents available on record.

20. From the mere perusal of the dispute in the instant case which arose due to purchase of a plot from the petitioner No. 1's company by the respondent No. 2 (informant) through the respondent No. 6, it appears that the matter relates to a civil dispute. The claim of the respondent No. 2 (informant) against the petitioners also indicates that the present case is not a case of any conspiracy, breach of trust or cheating as registered by the police for offences under section 120B/409/420 IPC, in as much as the claim of the respondent No. 2 (informant) is that there has been an undue delay in handing over of the plot purchased by him from the petitioner No. 1's company through the petitioner No. 6 (erstwhile owner). Under the facts and circumstances of the case, the offences under sections 120B/409/420 IPC may not be attracted in the

instant case against the petitioners.

21. Further, even if the registered offence are made out against the petitioners, the dispute is between the individual persons, i.e., petitioner No.1's company, petitioner No. 6 and the respondent No. 2; and it does not affect the society at large. And in the instant case the record reveals that the only grievance of the respondent No. 2 (informant) against the petitioner No. 6 and the petitioner No. 1 was either to deliver the plot of land purchased by him or to repay the amount deposited by him being sale consideration of the plot with interest thereon and to compensate for the delay and his suffering. The said grievance of the respondent No. 2 (informant) has adequately been attained and he had adequately been compensated by executing a memorandum of settlement dated 16.04.2024. Under the circumstances even if the present case proceeded, it would only result in acquittal of the petitioner/accused in as much as the grievance of the respondent no. 2(informant) has already been addressed by returning his money as demanded with adequate compensation. In such circumstances, it appears that the continuation of the investigation and/or the Trial of the case before the Court would result only in hardship to the parties and waste of the precious judicial time and loss of exchequer to the State and thus it would result in futile effort.

22. In view of the above, I find sufficient force and logic in the submission of the learned counsel for the parties for compromise of the matter.

23. The learned counsel for the parties in their support has

relied upon the decision in the case of **B.S.Joshi &Ors Vs. State of Haryana and Anr in SLP(Crl) No. 3416 of 2002**, wherein the Hon'ble Supreme court has observed as under:

“...In State of Karnataka v.L. Muniswamy&Ors [(1977) 2 SCC 699], considering the scope of inherent power of quashing under the section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the end of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the persecution on some other similar grounds.

In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Answer clearly has to be in 'negative'. It would, however, be a different matter if the High Court on facts decline the prayer for quashing for any valid reasons including lack of bona fides."

24. Further under such circumstances, it is now well settled that even though the offence lodged against the petitioners is non-compoundable offence, the High Court or the Apex Court in exercise of their inherent power may intersect the pending criminal proceeding. In this regard, this Court may gainfully place reliance on the principle of law enunciated by the Hon'ble Supreme court in the case of ***Ram Gopal Vs. State of Madhya Pradesh*** reported in ***2021 SCC Online SC 384***.

25. In view of the decision in the above referred cases and since the case has amicably been settled between the parties interse, this Court is of the considered opinion that the pending of the criminal proceeding in GR case. No. 105/2020 arising out of FIR No. 15/2024 dated 04.03.2024 registered at Sub Urban PS, Dimapur, Nagaland under section 420/409/120 B of IPC needs to be quashed and set aside.

26. Accordingly, the GR case No. 105/2024 arising out of FIR dated 04.03.2024 registered as Sub-Urban PS, Dimapur, Nagaland Case No. 10/2024 under section 120B/409/420 IPC pending investigation before the I.O. of the case/ Learned Chief Judicial Magistrate, Dimapur, Nagaland against the accused(s)/ petitioners i.e., Shri Ved Prakash M/s TDI Infrastructure Ltd (Petitioner No. 1);

Shri. Ravindra Kumar Taneja (Petitioner No. 2); Shri. Ved Prakesh (Petitioner No. 3); Shri D.N Taneja (Petitioner No.4); Shri Kamal Taneja (Petitioner No. 5); Suman Chawla (Petitioner No. 6); Chitwan Gandhi (Petitioner No. 7) is hereby quashed and set aside.

27. As a result, the above accused(s) namely M/s TDI Infrastructure Ltd (represented by Sri Ved Prakash, Petitioner No. 1); Shri. Ravindra Kumar Taneja (Petitioner No. 2); Shri. Ved Prakesh (Petitioner No. 3); Shri D.N Taneja (Petitioner No.4); Shri Kamal Taneja (Petitioner No. 5); Suman Chawla (Petitioner No. 6); Chitwan Gandhi (Petitioner No. 7) stands discharged.

28. With the above observation, this Criminal petition stands allowed and disposed of.

29. Send back the CD.

Sd/-
JUDGE

Comparing Assistant