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

*Date of Decision: September 02, 2015*

+ **CRL.M.C. 1194/2014 & CrI.M.A.3986/2014**

MOHIT KAURA & ANR ..... Petitioners  
Through: Ms. Rebbecca John, Senior  
Advocate, with Mr. Vikas Arora  
and Mr. Akshat Rehani, Advocates

versus

STATE & ANR ..... Respondent  
Through: Mr. A. K. Sharma, Additional  
Public Prosecutor for respondent-  
State  
Ms. Pooja M. Saigal and Mr.  
Rahul Sharma, Advocates for  
respondent No.2

**CORAM:  
HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT**  
**(ORAL)**

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Trial court vide order of 23<sup>rd</sup> August, 2012 has allowed respondent's application under Section 156 (3) of Cr.P.C. and has directed registration of the FIR in question for the offence of cheating as it was found that respondent-complainant had booked two flats with accused-company in which petitioners are the officers and these two flats were not allotted to respondent-complainant nor the payments received by accused-company was refunded to respondent-complainant.

According to respondent-complainant, the amount of ₹32,97,880/- was deposited with the accused-company which stands misappropriated by accused-company.

Aforesaid trial court's order of 23<sup>rd</sup> August, 2012 was unsuccessfully challenged by petitioners and their revision petition stands dismissed vide impugned order of 26<sup>th</sup> February, 2014 (*Annexure-A*).

At the hearing, learned senior counsel for petitioners submits that it is evident from the Email of 15<sup>th</sup> September, 2010 that alternate unit in another tower was offered to respondent-complainant but the same was not accepted and a cheque of ₹43, 41,422/- (*Annexure-J*) was offered to respondent-complainant on 18<sup>th</sup> February, 2011 after deducting TDS and it is so evident from *Annexure-K*.

During the course of hearing, learned senior counsel for petitioners informs that the State Consumer Commission has now directed the accused-company to refund the amount received with interest @ 12% per annum from the date of deposit till the date of realization and so, nothing survives in these proceedings and the impugned order deserves to be quashed.

Learned counsel for respondent-complainant submits that respondent-complainant has been unnecessarily harassed and after much delay, the payment is being made to respondent-complainant under the orders of the State Consumer Commission and so, petitioners ought to be put to terms for not promptly refunding back the amount received from respondent-complainant.

At this stage, learned senior counsel for petitioners submits that for the lapse and the inconvenience caused to respondent-complainant,

accused-company has been already directed to pay compensation of ₹2 lacs to respondent-complainant.

After having heard both the sides and on perusal of the impugned orders and the material on record, this Court is of the considered opinion that in view of the subsequent developments, the impugned orders, which were stayed in this petition, deserve to be quashed.

For the inconvenience caused to respondent-complainant, petitioners are directed to pay additional sum of ₹1 lac to respondent-complainant within six weeks from today. In the event of petitioners failing to pay the aforesaid amount to respondent-complainant, impugned orders shall stand revived.

Accordingly, this petition is allowed and the impugned orders stand quashed subject to payment of cost of ₹1 lac to respondent-complainant by petitioners.

This petition and the application are accordingly disposed of.

*Dasti.*

**(SUNIL GAUR)**  
**JUDGE**

**SEPTEMBER 02, 2015**

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