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

\+ **CRL.M.C. 3936/2012**

Date of decision: 03.09.2015

RAJESH YADAV & ORS.

..... Petitioner

Through: Mr.Dayan Krishnan, Sr. Advocate with Mr.Harsh Sinha and Ms. Lodha, Advs.

versus

STATE & ANR.

..... Respondent

Through: Ms. Alpana Pandey, APP for the State
SI Pawan Tomar, PS Prashant Vihar
Mr. Y.N. Bhardwaj, Adv. for applicant

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ASHUTOSH KUMAR, J. (ORAL)

Crl.M.A.5399/2015

1. By order dated 16.7.2015, it was noted by this Court that a prayer was made for impleadment as successor-in-interest of one Mr.Naveen Kumar Aggarwal, one of the complainants in the dispute, by the applicant, a public sector bank, viz. Indian Overseas bank (Government of India undertaking).

2. The filing of such an application was necessitated for the reasons that a cheque of Rs.13,22,000/- was issued by the petitioners in favour of late Naveen Kumar Aggrawal and despite insufficiency of funds in the account maintained by the petitioners, such amount was

permitted to be withdrawn by Mr. Naveen Kumar Aggarwal. This happened because of some technical snag in the computerised working of the bank. The Bank, therefore, had to be compensated for, otherwise the petitioner would have been benefited unjustly by the said amount.

3. An assurance was given to the Court that on the next date the draft of such amount in the name of the applicant bank would be deposited by the petitioners.

4. Pursuant to such an assurance given by the petitioners on 16.7.2015, a draft of Rs.13,22,000/- has been handed over to Mr.Y.N. Bhardwaj, learned advocate for the applicant. The same has been accepted. The grievance of the applicant bank stands redressed.

5. The application stands disposed off in terms of the above.

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6. The petitioners No.1 and 2 are the Directors of petitioner No.3, a company run under the name and style of M/s Pal Infrastructure & Developers Pvt. Ltd.

7. A prayer was made on behalf of the aforesaid petitioners for quashing of FIR No.38/2010 (P.S. Prashant Vihar) dated 03/02/2010 instituted for offences under Sections 420, 406, 465, 506, 120B and 34 of IPC.

8. The petitioners who dealt with real estate development, advertised in newspaper for booking of flats. Respondent No.2/Pradeep Gupta on being lured by such an advertisement, booked a unit after paying the booking amount of Rs.3,50,000/-. He was assured that the possession of the flat would be handed over to him

within the specified time.

9. Despite the passage of sufficient time, the respondent no.2 was dismayed at the fact that construction work had not been started. Respondent No.2, considering the delay, demanded his money back which was refused. This led to the registration of the subject FIR (FIR No.38/2010) with Police Station Prashant Vihar.

10. During the course of investigation of the case, the petitioners entered into an agreement with respondent No.2 and agreed to amicably settle all disputes/differences. The booking amount which was invested by respondent No.2 was paid by the petitioners. The respondent No.2 thereafter became ready for facilitating the quashing of the FIR lodged by him against the petitioners. The present petition was initially based on such an arrangement/settlement between the complainant (respondent No.2) and the petitioners.

11. When the matter came up for consideration before this Court, the State came up with the status report intimating to the Court that 50 other persons have also been duped by the petitioners and they have also filed complaints against the petitioners.

12. Sensing that there were many complainants, petitioners, in their wisdom, made a statement before this Court that they were prepared to settle the disputes with all those 50 complainants. Later, out of those 50 complainants/aggrieved persons, 40 persons formed an association, which association was represented by one of the aggrieved persons.

13. By the order of this Court, an arrangement was made whereby the aggrieved persons were identified by this Court who were required to be paid their money by the petitioners. Necessary directions were

given by this court and a time limit was fixed phase-wise payment to all the investors.

14. There were some delays in making of payments to some of the complainants. But by May, 2015, all the identified complainants were paid their dues and they in turn performed their part of obligation of withdrawing all complaints against the petitioners at other forums as well.

15. No more complainants, identified by this Court, were left to be paid.

16. During the pendency of this petition, certain applications came to be filed seeking their impleadment as the applicants also claimed to be aggrieved by the conduct of the petitioners. They also came with an allegation and claim that they were duped by the petitioners. However, such applications were not entertained by this Court and by order dated 6.5.2015, a Bench of this Court dismissed such petitions, but gave the applicants liberty to initiate fresh/appropriate proceedings as per law against the petitioners.

17. One of the identified aggrieved persons namely Mr. Naveen Kumar Aggarwal, was handed over a cheque of Rs.13,22,000/-. The aforesaid cheque was withdrawn by Mr. Naveen Kumar Aggarwal despite there not being sufficient funds at that time in the account maintained by the petitioner. This happened because of some technical snag in the computerised functioning of the bank. When the bank namely Indian Overseas Bank realised that they have been put to loss, an application was filed being Crl.M.A.5399/2015 seeking impleadment of successor-in-interest Mr. Naveen Kumar Aggarwal.

Without such impleadment, of the successor in interest of Mr. Naveen Kumar Aggarwal, it was assured by the learned counsel appearing on behalf of the petitioners that since money was paid to Mr. Naveen Kumar Aggarwal but not out of the petitioners' bank account, the bank was required to be given that amount.

18. A draft of Rs.13,22,000/- was given by the petitioners to the counsel appearing for the applicant namely Indian Overseas bank today in the Court. The Crl.M.A.5399/2015 thus was disposed off by indicating that the amount, which was due to the bank, was paid by the petitioners.

19. The present petition for quashing of the subject FIR (FIR No.38/2010) was filed by arraying Pradeep Gupta (respondent No.2), the only complainant at that time. During the period when such FIR was being investigated, many more aggrieved persons joined hands and reported the matter to the Police. The aforesaid persons came before this Court seeking their impleadment in the writ petition. As has been noted and recorded earlier, this Court identified a list of 50 persons about whom the petitioners made an offer to settle their disputes with them also. A long drawn exercise was done by this Court in identifying the aggrieved persons, making separate batches of such persons and providing instructions for them to be paid by the petitioners.

20. Since the matter has been settled with respect to all those persons who had come up before this Court and whose grievances had been totally redressed, no useful purpose would be served in keeping the investigation of the subject FIR (FIR No.38/2010) pending. The

orders of this Court do indicate that the purpose of directing the petitioners to make payments to all the aggrieved persons identified by this Court was to put an end to the litigation between the petitioners and the aggrieved parties.

21. It has been submitted on behalf of the petitioner that the dispute having been settled by payment to all those who had invested in the company and who came up before this Court, the case for quashing of FIR is made out.

22. The petitioner submits that a total for Rs.3.50 crores has been paid to the aggrieved persons.

23. Considering the aforementioned facts, this Court is inclined to quash the FIR.

24. The FIR No.38/2010 is quashed with all the emanating proceedings thereof.

25. The petition is allowed.

ASHUTOSH KUMAR, J

SEPTEMBER 03, 2015
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