

\$~46

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

+ **W.P.(CRL) 2270/2015**

M/S EARTH INFRASTRUCTURES LTD. & ANR

..... Petitioner

Through: Ms. Deepti Gupta, Adv.

versus

THE STATE & ANR

..... Respondent

Through: Ms.Kamna Vohra, ASC for the State

SI Naresh Kumar, PS K.M. Pur

Mr. Kshitij Mittal and Mr. Anshul Mittal, Advs.

for R-2 along with R-2 in person

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

%

09.10.2015

Crl. M.A.14959/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2270/2015

The present petition has been filed on behalf of the petitioners, namely M/s Earth Infrastructures Ltd. and M/s Earth Buildrop Pvt. Ltd. through their common Director, Atul Gupta, seeking quashing of FIR No.932/2015 (P.S. K.M. Pur, South District) instituted for offences under Sections 420, 406 and 120B of the IPC on the strength of a settlement having been arrived at with respondent No.2, the complainant.

It has been submitted that respondent No.2 invested in a project

undertaken by the petitioners. The petitioners are engaged in a building and real estate development and are handling various projects. Some investments were made by the respondent No.2, but for some reason or the other, later, respondent No.2 lost interest in buying the residential unit for which he had paid money in the beginning. The request of respondent No.2 for return of the amount after cancellation of his provisional booking was not acceded to. This led to the lodging of the subject FIR (FIR No.932/2015)

It has been submitted on behalf of the petitioner that the whole issue galvanised into lodging of criminal case only because of some communication gap between the complainant and the company through the directors. However, the proposal given by the respondent No.2 was accepted in totality by the petitioner and the entire amount which has been invested by respondent No.2 has now been returned to him, which has been accepted by respondent No.2 as full and final settlement of all his claims. The details of the mode of payment have been set out in paragraph 6 of the petition.

The aforesaid contentions of the petitioner are not being disputed by the respondent.

Considering the fact that the dispute was purely personal in nature i.e. between the respondent No.2 and the company and which dispute has now been settled, no useful purpose would be served in keeping the investigating agency engaged in investigating the subject FIR (FIR No.932/2015) any further. It is also stated that the case is at nascent stage of investigation. The Respondent No.2 does not intend to prosecute the petitioners any further.

In **Gian Singh vs. State of Punjab & Another**, (2012) 10 SCC 303, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

The Supreme Court has further observed in **Gian Singh vs. State of Punjab & Another (Supra)**:

“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood

of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

[Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

Thus, the inherent powers of the High Court, having a wide plenitude could be used for quashing the FIR for securing the ends of justice and to prevent the abuse of the process of the court.

The present FIR does not disclose any serious offence and the nature of the offence alleged cannot have any serious impact on the society.

In the event of the settlement between the complainant/informant and accused persons, the possibility of conviction has become very remote and bleak. Continuation of criminal proceeding in a case of this kind would put the petitioners to great oppression and prejudice and extreme justice will be caused to them.

Keeping in mind the facts of this case and the settlement between the parties, allowing the criminal proceeding to be continued any further, would not be in accord with the guiding factor namely securing the ends of justice.

Considering the aforesaid fact, the FIR No.932/2015 (PS K.M. Pur) and all the emanating proceedings thereof are quashed.

The petition is disposed of in terms of the above.

Dasti.

ASHUTOSH KUMAR, J

OCTOBER 09, 2015

ns