

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRWP No. 963 of 2016 (O&M)
DATE OF DECISION :- July 25, 2016**

Emaar MGF Land Limited

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE SNEH PRASHAR

Present:- Mr. Vikram Chaudhari, Senior Advocate
with Mr.Shekhar Verma, Advocate for the petitioner.

Mr. Amit Arora, Advocate for respondent no. 2
and for Mr. Gaurav Pathak.

Mr. Parminder Singh Kanwar, Advocate for Kunal Bali.

Mr. Vivek Chauhan, Advocate for Girish Wadhwa.

M.JEYAPPAUL, J.

CRM-W-202 of 2016

Reply filed by Assistant Commissioner of Police, Manesar,
Gurgaon is taken on record.

CRWP No. 963 of 2016

1. The Writ Petition has been filed under Article 226/227 of the
Constitution of India read with Section 482 of the Code of Criminal

Procedure, 1973 and Article 21 and 19(g) of the Constitution of India to adjudicate upon the vires of Section 154 of the Code of Criminal Procedure and either to strike down or read down as well as delineate the ambit and scope of the said provisions inter-alia in the light of the Constitution Bench pronouncement of the Hon'ble Supreme Court in “Lalita Kumari Vs. Government of Uttar Pradesh and others (2014) 2 SCC 1”.

2. Heard the submissions made on either side.

3. F.I.R. 0307 dated 18.9.2015 registered under Sections 406/420 IPC and Section 3/32/14 of the Haryana Protection of Depositors in Financial Establishments Act, 2014 was registered at P.S. DLF Phase-1, Gurgaon against the petitioner company on the complaint filed by Vikram Saluja.

4. The main allegations in the F.I.R. are that on 14.5.2010, the complainant deposited a sum of Rs.1,27,69,198/- for the unit PTF-ID-0201 with the petitioner company for booking of flats and the time of possession of the flat was given for November, 2012, but the said period elapsed. Neither the possession of the flat nor the above amount deposited was returned to the complainant. During the course of investigation, statements under Section 161 Cr.P.C. of other complainants namely, Gaurav Pathak, Kunal Bali and Girish Wadhwa were recorded. The amount involved qua the above three complainants is Rs.1,31,54,750/-, 1,35,00,000/- and 1,38,57,404/- respectively.

5. The 2nd respondent Vikram Saluja and the other complainants namely Gaurav Pathak, Kunal Bali and Girish Wadhwa have filed separate

vakalatnama. They also produced the letters sent to Special Investigation Team, Economic Offences Wing (South), Police Commissioner, Gurgaon seeking withdrawal of the complaint filed by Mr. Vikram Saluja in F.I.R. No. 0307 dated 18.9.2015 and the complaints made by the other complainants, namely, Gaurav Pathak, Kunal Bali and Girish Wadhwa through their statements under Section 161 Cr.P.C. against Emaar MGF Land Limited, the petitioner herein as the dispute between petitioner and the above complainants has been amicably settled.

6. On 22.7.2016, when we took up the matter for hearing we categorically observed that the dispute between the parties was found prima facie civil in nature. The parties have amicably settled their money dispute. No public fund entrusted interest was defrauded by the petitioners. The complaint reflects of purely a civil transaction. Now, they have amicably settled their dispute which has given rise to the lodging of complaint. Continuation of prosecution in the instant case will never be fruitful as the complainants would be reluctant to support the allegation in the complaint on account of settlement of their dispute.

7. For all these reasons, we are of the view that above complaint is liable to be quashed. Therefore, the complaint given by the 2nd respondent Vikram Saluja in F.I.R. No. 0307 dated 18.9.2015 and the complaints lodged through the statements under Section 161 Cr.P.C. during the course of investigation by Gaurav Pathak, Kunal Bali and Girish Wadhwa against the petitioner stands quashed.

8. The learned Senior Counsel for the petitioner submits that the

petitioner does not press the challenge made to the vires of Section 154 of the Code of Criminal Procedure. Under such circumstances, the relief prayed by the petitioner to adjudicate upon the vires of Section 154 Cr.P.C. stands dismissed as not pressed.

9. The Writ Petition is disposed of accordingly.

(M. JEYAPPAUL)
JUDGE

(SNEH PRASHAR)
JUDGE

July 25, 2016
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No