

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

+ **CRL.M.C. 5350/2014**

Date of Decision: November 17th, 2016

ANSAL PROPERTIES & INFRASTRUCTURE LTD. ANS ORS

...Petitioners

Through Mr. Mudit Sharma, Mr.
Tanmaya Nirmal, Advocates for
petitioners no.1 to 15

versus

NCT OF DELHI AND ANR

..... Respondents

Through Mr.Rajat Katyal, APP for the State
with Sub Inspector Ashutosh, EOW, Mr.
Ranjana Roy Gawai, Mr. Abhey P.Singh,
Advocate for respondent no.2

W.P.(CRL) 71/2011

J P NAYAK & ORS

..... Petitioners

Through: Mr. Atul Sharma, Mr. Sunil Sethi,
Advocate

versus

STATE & ANR

..... Respondents

Through: Mr. Rahul Mehra, Standing Counsel
(Criminal) for the State
Ms. Ranjana Roy Gawai, Advocate
for respondent No. 2
Mr. Pavan Narang, Ms. Vasundhara
Chauhan, Advocate for the
complainant

W.P.(CRL) 72/2011

L & T INFRASTRUCTURE FINANCE COMPANY LTD & ORS

..... Petitioner

Through: Mr. Atul Sharma, Mr. Sunil Sethi,
Advocate

versus

STATE & ANR

..... Respondents

Through: Mr. Rajesh Mahajan, Additional
Standing Counsel with Ms. Parul
Jamwal, Advocate
Ms. Ranjana Roy Gawai, Advocate
for respondent No. 2
Mr. Pavan Narang, Ms. Vasundhara
Chauhan, Advocate for the
complainant.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petitions under Article 226/227 and CrI.M.C. of the Constitution of India read with Section 482 Cr.P.C., respectively, have been filed by the petitioners, namely, Mr. J.P. Nayak, Mr. Venkataramanan, Mr. V.K. Magapu, Mr. M.V. Kotwal, Mr. R.N. Mukhija, Mr. K.V. Rangaswami and Mr. A.M. Naik in W.P.(CRL) 71/2016; Ansal Properties & Infrastructure Ltd., Sushil Ansal, Mr. Pranav Ansal, Mr. Anil Kumar, Dr. Lalit Bhasin, Mr. Rahul Chandrakanta Kirloskar, Mr. P.R. Khanna, Mr. Ramesh Chander Vaish, Mr. Dharmendra Nath Davar, Mr. O.P. Mehra, Anand Rathi Financial Services Ltd., Mr. Anand Rathi, Mr. Amit Rathi, Mr. Pradeep Gupta, Mr. Rahul Porwal in CRL.M.C. 5350/2014; L&T Infrastructure Finance Company Limited through their authorized

signatory Virender Pankaj, Mr. Y.M. Deosthalee, Non-Executive Director and Mr. Mohanjit Singh in W.P.for quashing of FIR No.511/2010 dated 31.12.2010, under Sections 409/420/465/468/471/120-B/34 IPC registered at Police Station K.W. Camp/Model Town.

During the course of hearing of the above named petitions, the parties arrived at a settlement and have now prayed for the FIR in question to be quashed on the basis of such settlement.

2. Learned Additional Public Prosecutor for respondent-State submitted that the respondent no. 2 present in the Court has been identified to be the complainant/first informant in the FIR in question by his counsel.

3. The factual matrix of the present case is that it is alleged in the complaint that M/s Ansal Properties and Infrastructure Ltd. (hereinafter referred to as “APIL”) was being run by accused no.2 to 11 as shown in the complaint and accused no.2 and 3 approached Respondent no.2/complainant with a proposal for development of a on the land in SEZ (approx. 200 acres) near Sonepat, Murthal, Haryana owned by respondent no.2 together with one Sanjay Sawhney. It is alleged that respondent no.2 agreed to the proposal and a joint venture private limited company was incorporated by the name Ansal Seagull SEZ Developers Ltd. with respondent no.2 having 50% equity share holding in the same. It is alleged that the complainant contributed his land and APIL was supposed to develop the land. It is alleged that the respondent no.2 had a company by the name of Kamdhenu Agro Pvt. Ltd. (hereinafter referred to as “KALP”) and the land in question was

transferred to KALP to make KALP a 100% subsidiary of Ansal Seagull SEZ Developers Ltd., something which was done and pursuant thereto the name of KALP was changed twice and is now known as Ansal Seagull SEZ Developers Ltd. It is further alleged that APIL coaxed/duped respondent no.2 into entering into an Assistance Agreement dated 09.10.2007 with L&T Infrastructure Finance Company Limited for grant of assistance amount to the tune of Rs. 50 Crores for SEZ land with an intention to grab the land. It is further alleged that after the loan was granted, a sum of 26,05,00,000/- was withdrawn from the account of Ansal Seagull SEZ Developers Ltd. by APIL, representing to the respondent no.2 that the said money shall be returned shortly or paid to L&T Infrastructure. It is further alleged that the APIL showed a confirmation by L&T Infrastructure Finance Company Ltd. having received 26,05,00,000/- which later on came to the knowledge of respondent no.2 that the same was a forged document. In a further a turn events and the communications that followed between the parties, the said complaint and the accompanying application under Section 156(3) of the Cr.P.C. were brought before Ld. MM, who, vide order dated 15.12.2010 allowed the said application and thereby directed the SHO, Police Station KW Camp/Model Town, to investigate the case after registration of the FIR and sought a report with respect to the investigation on 22.01.2011.

During the pendency of the proceedings, the matter was settled between the petitioners and the respondent no. 2.

4. Respondent No.2 present in the Court submitted that the dispute

between the parties has been amicably resolved. Respondent No.2 affirmed the contents of the aforesaid settlement. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end. Statement of the respondent no. 2 has been recorded in this regard in which he stated that he has entered into a compromise with the petitioners and has settled all the disputes with them. He further stated that he has no objection if the FIR in question is quashed.

5. In *Gian Singh v. State of Punjab (2012) 10 SCC 303* Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

“61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

6. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in *Narinder Singh v. State of Punjab (2014) 6 SCC 466*. The relevant observations of the Apex Court in *Narinder Singh (Supra)* are as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and

exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

7. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no. 2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of his own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

8. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

9. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of *State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors.* MANU/SC/0842/2014 and in the case of *Inder Singh Goswami v. State of Uttaranchal* MANU/SC/0808/2009 has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court

comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of ***B.S. Joshi and others v. State of Haryana and another*** 2003 (4) SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

In the light of the aforesaid, this Court is of the view that notwithstanding the fact that the offences under Sections

409/465/468/471 IPC are non-compoundable offences, therefore, there should be no impediment in quashing the FIR under these sections, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

11. In the facts and circumstances of this case and in view of statement made by the respondent no. 2, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

12. Accordingly, these petitions are allowed and FIR No.511/2010 dated 31.12.2010, under Sections 409/420/465/468/471/120-B/34 IPC registered at Police Station K.W. Camp/Model Town and the proceedings emanating therefrom are quashed against the petitioners.

13. These petitions are accordingly disposed of.

November 17, 2016
dd

(P.S.TEJI)
JUDGE