

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CRL.M.C. 934/2016

Date of Decision: October 17<sup>th</sup>, 2016

ADITYA INFRADEVELOPERS PVT. LTD & ORS..... Petitioners

Through Mr.Somesh Arora, Mr.Gulshan  
Sharma and Mr.S.K. Bharti, Advs.

versus

NCT OF DELHI & ANR

..... Respondents

Through Mr.G.M. Farooqui, APP.  
Respondent no.2 in person with  
Mr.Arun Vohra, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE P.S.TEJI**  
**P.S.TEJI, J.**

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioners, namely, M/s. Aditya Infradevelopers Pvt. Ltd. through its duly authorized representative Sh. Satish Rai, M/s. Laiba IT Infrastructure Pvt. Ltd. through its duly authorized representative Sh. Harinder Lal Srivastava and M/s. Kaliber Associates Pvt. Ltd. through its authorized representative Sh. Harinder Lal Srivastava for quashing of FIR No.159/2012 dated 16.11.2012, under Sections 406/409/418/420/468/471/477(A)/120B IPC registered at Police Station E.O.W. on the basis of Settlement Agreement executed between the petitioners and respondent no.2, namely, Mr. Birendra Kumar Pasari along with others on 26.11.2015 at the Delhi High Court Mediation & Conciliation Centre, Delhi High Court, New Delhi.
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 his counsel.

3. The factual matrix of the present case is that the complainant is one of the directors of M/s. Dilwara Leasing and Investment Ltd. It is alleged by the complainant that the complainant through the above named company had taken an allotment of nearly 28,000 sq. ft. area in 'Project Corporate One' at Jasola, New Delhi being developed by M/s. Aditya Infradevelopers Pvt. Ltd, petitioner no.1 herein. Out of the total allotment, a space of 5451 sq. ft. was allocated on the ground floor for a total price of Rs. 4,90,59,000. A space of 4912 sq. ft. was allotted on the first floor for a total price of Rs. 3,00,12,320/- (both vide allotment letter dated 18.08.2007) and a space of nearly 16,000 sq. ft. was allocated on the fourth floor for a total price of Rs. 8,00,00,000/- (vide allotment letter dated 06.02.2006). The total price consideration involved in the purchase of the said space amounted to Rs.15,90,71,320/-. It is alleged that out of the said allotments the M/s. Aditya Infradevelopers Pvt. Ltd. delivered to the complainant, the possession of the first floor only. It is further alleged that out of the total sum of Rs. 15,90,71,320/- an amount of Rs. 13,14,53,664/- had been already paid and that the cheques with regard to the balance amount had already been issued and handed over to Mr. Nilay Mittal to submit them with M/s. Aditya Infradevelopers Pvt. Ltd. The date of completion of the ground floor was 31.07.2008, which was however delayed. On 04.08.2009, M/s. Aditya Infradevelopers Pvt. Ltd. cancelled and revoked the allotment of the space of Super Area 5451 sq. ft. on the ground floor and Super Area 16,000 sq. ft on the fourth floor to the complainant vide two cancellation letters, both, dated 04.08.2009. On 01.09.2009, M/s. Aditya Infradevelopers Pvt. Ltd.

handed over the possession of the space of Super Area 4912 sq. ft. (covered area 2456 sq. ft.) as had been allotted by M/s. Aditya Infradevelopers Pvt. Ltd. to the complainant. It is alleged that on 08.07.2010, M/s. Aditya Infradevelopers Pvt. Ltd. sold the space Super Area 5451 sq. ft. to M/s. Laiba IT Infrastructure Pvt. Ltd, petitioner no.2 herein, vide a duly registered Sale Deed dated 29.07.2010. It is further alleged that M/s. Aditya Infradevelopers Pvt. Ltd. further agreed to sell the space Super Area 16,000 sq. ft. on the fourth floor, to M/s. Kaliber Associates Pvt. Ltd., petitioner no. 3 herein vide Agreement to Sell dated 08.07.2010. Two suits of specific performance were filed before this Court, being CS(OS) No. 1614/2010 and CS(OS) No. 1615/2010 by M/s. Dilwara Leasing and Investment Ltd. through its director, respondent no.2 herein, against the petitioners.

Thereafter, a complaint was lodged by the complainant following which the FIR in question was registered against the accused persons. Later, parties arrived at an amicable settlement before at the Delhi High Court Mediation & Conciliation Centre, Delhi High Court, New Delhi on 26.11.2015.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the relevant terms of the Mediation report, the parties have agreed that immediately after the execution of the present settlement from the Delhi high Court Mediation & Conciliation Centre, the parties to the suit being Nos. CS (OS) 1614/2010 and CS(OS) No. 1615/2010 shall move an appropriate joint application, within three working days for

recording of the settlement, decree of the suits and for the withdrawal of the respective deposited amounts along with interest. It is further agreed between the parties to the settlement that M/s. Aditya Infradevelopers Pvt. Ltd. shall execute and present the Sale Deeds for registration before the concerned Sub-Registrar, New Delhi in favour of M/s. Dilwara Leasing and Investment Ltd. and shall hand over the possession to M/s. Dilwara Leasing and Investment Ltd. and simultaneously, M/s. Dilwara Leasing and Investment Ltd. shall make the payment under the settlement to M/s. Aditya Infradevelopers Pvt. Ltd. It is agreed that the parties unequivocally undertake that pursuant to this Settlement Agreement and fulfilling of all the stipulations provided herein, they shall not institute any fresh civil or criminal case against each other with respect to the disputes in question. It is also agreed that the parties undertake to withdraw, compromise any and all such cases, complaints etc. interse between the parties qua the above said property(s) and further undertake to not pursue such complaint and shall also extend all possible cooperation to get the same withdrawn, or quashed/compounded as the case may be, and decided.

Respondent No.2 affirmed the contents of the aforesaid settlement and of his affidavit. 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 409/468/471/477A IPC are non-compoundable offences, 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, this petition is allowed and FIR No.159/2012 dated 16.11.2012, under Sections 406/409/418/420/468/471/477(A)/120B IPC registered at Police Station E.O.W. registered and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

OCTOBER 17, 2016/dd



**(P.S.TEJI)  
JUDGE**