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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 137/2016, CRL.M.A. 569/2018 & CRL.M.A. 19756/2017

M/S ADEL LANDMARKS LTD & ORS Petitioners
Through: Mr. Mohit Mathur, Sr. Advocate with
Mr. Vishal Gera, Advocate along with
petitioners no. 1 to 3.

versus

GOVERNMENT OF NCT OF DELHI & ANR Respondents
Through: Mr. Panna Lal Sharma, APP for State
with Insp. Ram Niwas, PS New
Friends Colony.
Respondent no. 2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
06.12.2017

Vide the present petition, the petitioner had sought quashing of the FIR no. 234 dated 31.05.2015 under Sections 420/468/471 read with Section 34 of the IPC, 1860 registered at PS New Friends Colony submitting *inter alia* to the effect that a settlement between the parties and had also sought that further proceedings or investigation are initiating by coercive/ puritive steps against the petitioners be also stayed during the pendency of the petition.

Vide the proceedings dated 23.05.2017, the matter had been renotified for the date 06.12.2017. The matter was, however, taken up on 29.11.2017 in view of CRL.M.A. 19756/2017 filed by the petitioners seeking that the settlement deed be taken on record and the FIR be quashed.

As it was submitted on behalf of the State that further proceedings under Section 82 of Cr.P.C, 1973 had been initiated against 9 persons and as it was submitted by the respondent no. 2 that in the event of his being paid back his dues, he did not seek any coercive action against the petitioners, the proceedings under Section 82 of Cr.P.C, 1973 had been stayed till date in view of the CRL.M.A. 19756/2017 filed by the petitioners seeking to bring on record the settlement agreement and seeking quashing of the FIR and all consequential proceedings emanating therefrom.

The statement of the Investigating Officer of the case, Insp. Ram Niwas was recorded today and he identified the petitioners no. 2 & 3 on the basis of documents produced by them. He also stated that there are a total of nine accused arrayed in the FIR no. 234/2015, PS New Friends Colony.

Mr. Mohinder Singh Kajla, complainant of the FIR in question was examined also today and testified to the settlement agreement dated 27.11.2017 which is Ex. CW2/B having been signed by him voluntarily without any threat, fear, pressure, duress and coercion. He further testified to the effect pursuant to the said settlement a sum of Rs. 22,16,000/- had been received by him already from the petitioners and further a sum of Rs. 7,40,580/- was to be paid to him by the petitioners at the time of quashing of the FIR no. 234/2015, PS New Friends Colony and all consequential proceedings in relation thereto. He further testified to the effect that during the course of the proceedings today, he received the DD bearing nos. DD bearing nos. 488693 dated 27.11.2017 for a sum of Rs. 2,50,000/-, photocopy of which is Ex. CW-2/C, DD bearing no. 488795 dated 27.11.2017 for a sum of Rs. 2 lacs, photocopy of which is Ex. CW-2/D, DD bearing no. 488714 dated 27.11.2017 for a sum of Rs. 2,50,000/- photocopy

of which is placed at Ex. CW-2/E and a DD dated 27.11.2017 bearing no. 488805 for a sum of Rs. 40,592/-, photocopy of which is placed at Ex. CW-2/F ; all of which are drawn on the HDFC Bank which have been handed over to him in the Court today. He further stated that there are no claims of his left against the petitioners no. 1 to 3, i.e., M/s Adel Landmarks Ltd., Mr. Sumit Bharana and Ms. Manisha Bharana. He has also stated that though other persons namely Arvind Kumar Birla, Rakesh Kumar Gupta, Rinkesh Singh Jurel, Welfare Realitycare Pvt. Ltd are also arrayed in the FIR as well as Bhupinder Varshney and Joy Saxena were to be arrayed as accused, in view of the settlement arrived at between him and the petitioners no. 1 to 3 vide settlement agreement Ex. CW2/B, he does not seek to pursue the proceedings any further in relation to FIR no. 234/2015, PS New Friends Colony, New Delhi.

In view of the said settlement made by the respondent no. 2, learned APP for the State has not opposed the prayer made by the petitioners seeking quashing of the FIR no. 234/2015, PS New Friends Colony under Section 420/468/471/34 of the IPC, 1860.

Though undoubtedly, the offences punishable under Section 468/471/34 of IPC, 1860 are not compoundable, taking into account the factum that the FIR no. 234/2015 emanates from a commercial dispute between the petitioners and the respondent no. 2 which has since been resolved vide a settlement agreement dated 27.11.2017, which is on the record as Ex. CW2/B which the respondent no. 2 has categorically affirmed to have signed, voluntarily of his own accord without any duress, coercion or pressure from any quarter, in view of the observations in the verdict of the Hon'ble Supreme Court in *Gian Singh vs. State of Punjab & Another*,

(2012) 10 SCC 303, to the effect : -

*“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.]”*

(emphasis supplied)

it is thus considered appropriate in the interest of justice to put a quietus to the litigation between the parties so that the peace and harmony between them is restored. Especially, in view of the settlement arrived at between the petitioners no. 1 to 3 and the respondent no. 2, there is no likelihood of any conviction of the petitioners and all other accused mentioned in the FIR and others who are arrayed as accused by the investigating agency.

In the circumstances, thus, the prayer made in the petition by the petitioners seeking quashing of the FIR No. 234/2015, registered at PS New Friends Colony, under Sections 420/468/471/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioners no. 1 to 3 i.e. M/s Adel Landmarks Ltd., Mr. Sumit Bharana and Ms. Manisha Bharana and all others sought to be arrayed as accused by the investigating agency and all consequential proceedings emanating therefrom and the proceedings u/s 82 of C r.P.C. in relation to the FIR no. 234/2015, PS New Friends Colony, New Delhi under Sections 420/468/471/34 of IPC, 1860 are quashed.

The petition is disposed of accordingly.

ANU MALHOTRA, J

DECEMBER 06, 2017

Neha Chopra