

§-29 to 31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(CRL) 1966/2016****SANJEEV BATRA**

Through

..... Petitioner

Mr. Ajay Burman, Sr. Adv. along
with Ms. Leena Tuteja, Mr. Ishaan
Chawla, Ms. Sadhvi Gaur, Ms. Tanya
Harnal & Ms. Diksha Bhatia, Advs.

versus

STATE & ANR

Through

..... Respondent

Mr. Siddharth Sindhu, Adv. for
Mr. Sanjay Lao, ASC
Inspector Bhagwan Singh, EOW
Mr. S.K. Gautam with Mr. Manoj
Kumar, Advs. for Mr. Atul Gupta and
Mr. Vipul Gupta+ **W.P.(CRL) 1967/2016****ARUN SAGAR BHATIA**

Through

..... Petitioner

Mr. Anil Sapra, Sr. Adv. with Mr.
Kartik Bhardwaj, Mr. Sarthak Katyal,
Ms. Piyusha Singh, & Mr. Jaideep
Singh, Advs.

versus

THE STATE & ANR

Through

..... Respondents

Mr. Siddharth Sindhu, Adv. for
Mr. Sanjay Lao, ASC
Inspector Bhagwan Singh, EOW
Mr. S.K. Gautam with Mr. Manoj
Kumar, Advs. for Mr. Atul Gupta and
Mr. Vipul Gupta

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+ W.P.(CRL) 1968/2016

PREM SACHDEV

Through

..... Petitioner
Mr. Ajay Burman, Sr. Adv. along
with Ms. Leena Tuteja, Mr. Ishaan
Chawla, Ms. Sadhvi Gaur, Ms. Tanya
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Mr. Siddharth Sindhu, Adv. for
Mr. Sanjay Lao, ASC
Inspector Bhagwan Singh, EOW
Mr. S.K. Gautam with Mr. Manoj
Kumar, Advs. for Mr. Atul Gupta and
Mr. Vipul Gupta

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

%

30.08.2017

By the aforesaid writ petitions, the petitioners, who were the Directors of Trident Projects Ltd., have sought quashing of FIR No.48/2014 dated 15.05.2014 (P.S. EOW) instituted for offences under Sections 420, 120B and 406 of the IPC.

It was alleged in the FIR that on the assurance and insistence of the petitioners in their capacity as Directors of the aforesaid firm, investments were made by respondent No.2 and others in the nature of deposits as booking amount for purchase of flats. However, the project started for some time and thereafter closed. All attempts of the respondent No.2 and others to have the money returned also failed. Hence, the subject FIR was lodged.

During the course of investigation, not only the petitioners settled

their dispute with respondent No.2 but with all other investors, who are 19 in number, and all those investors have been paid the amount which was invested by them along with the interest over the aforesaid amount. Two of such investors namely Atul Gupta and Vipul Gupta had not responded to the offer of the petitioners for settlement. However, on notice, the aforesaid two persons also appeared before this Court and expressed their desire of settling their disputes. Today, a settlement agreement cum receipt of the amount of Rs.56 lakh (Rs.28 lakh for each of the two investors) has been filed which has been taken on record.

The status report filed on behalf of the State also affirms the aforesaid facts.

One such investor, namely, Uttam Singh Oberoi was not available for his response to the petition. However, the learned counsel for the State, on instructions from the Investigating Officer of this case, has informed that he too has settled the dispute with the petitioners.

The settlement agreement, which has been taken on record *inter alia* states that the aforesaid two investors would have no objection to the quashing of the present FIR. It also contains an averment that two civil suits which were filed by them for the recovery of money shall also be withdrawn.

Taking into account the fact that the petitioners have made efforts to repay the amount invested by all the persons who were aggrieved because of the project having been stopped and that also with interest, this Court is inclined to quash the subject FIR as no useful purpose would be served in continuing with the investigation. That apart, repayment of the amount along with the interest indicates the bona fides of the petitioners and their

clear intention of not duping the investors.

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.]

For the reasons afore-recorded, the FIR No. 48/2014 dated 15.05.2014 (P.S. EOW) instituted for offences under Sections 420, 120B and 406 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.


ASHUTOSH KUMAR, J

AUGUST 30, 2017

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