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

+ W.P.(CRL) 1076/2017

KYORI OREMIN LTD & ORS Petitioners
Through: Mr.Akshay Malik, Adv.

versus

STATE NCT OF DELHI Respondent
Through: Mr.Ranjan Kumar, Adv. for R-2.
SI Raj Malik, AATS, Rohini.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER
% **17.04.2017**

Crl.M.A No.6065/2017

Exemption allowed, subject to all just exceptions.

Application is disposed of accordingly.

W.P.(Crl.) 1076/2017

The present writ petition has been filed seeking quashing of the FIR No.1116/2015 dated 20.10.2015 (P.S. K.N.Katju Marg), initially instituted for offences under Sections 420/506/120B IPC but later Sections 467, 468, 471 IPC added, on the strength of a Memorandum of Understanding/Settlement Deed dated 24.02.2017 having been arrived at between the parties.

The petitioner No.1 is a duly incorporated company of which petitioner No.2 is the authorised representative and the Managing Director.

Petitioners No.3 & 4 are the non-executive directors of petitioner No.1 whereas petitioner No.5 is a friend of petitioner No.2. Petitioner No.6 is the ex-COO of petitioner No.1 who worked as financial consultant for the petitioner till 02.08.2015. The petitioners No.3 to 6 are non residents of Delhi and, therefore, have executed their Special Power of Attorney (Annexure P-13 Colly to the Petition) authorising petitioner No.2 to represent them before this Court.

The petitioner and respondent No.2 had entered into a loan agreement dated 01.04.2015 whereby a sum of Rs.5 crores was advanced by respondent No.2 to the petitioner company for a term of six months. However, due to misunderstanding between the parties, the subject FIR was registered.

It has been submitted on behalf of the petitioners that in order to secure protection from arrest and in compliance of the directions of the Court below which heard the bail applications of the petitioners, the petitioners No.2 to 4 deposited FDRs totalling Rs.1.6 crores with the IO which was drawn in the name of respondent No.2 company. Petitioner No.5 also deposited two FDRs of Rs.10 lakhs each, totalling Rs.20 lakhs with the learned M.M, drawn in the name of Metropolitan Magistrate-04 (North), Rohini Courts, Delhi.

During the pendency of the investigation of the subject FIR, the parties decided to settle all disputes amicably and a Memorandum of Understanding/Settlement Deed dated 24.02.2017 was brought about.

As per the terms of the Memorandum of Understanding/Settlement Deed dated 24.02.2017, it was agreed upon by the parties that:-

- A. *“That it has been mutually agreed between the parties that the 2nd Party shall pay a total sum of Rs.6 crores (Rupees 5 Crores towards Principal Amount, Rs. 50 lacs towards reimbursement of legal and other expenses and Rs. 50 lacs towards interest) to the 1st Party towards full and final settlement of repayment of the loan amount of Rs.5 crores for settlement of all its claims/compensation/ litigation cost/ damages/ legal expenses incurred/ claimed or otherwise etc. of past, present and future arising out of their ongoing dispute.*
- B. *That out of the total sum of Rs.6 crores as settled between the PARTIES, the 1st Party acknowledges to have received a sum of Rs. 75 lacs in total via RTGS from the 2nd Party as mentioned above.*
- C. *That the Second Party shall pay an amount of Rs.3.45 crores to the First Party at the time of execution of the present MOU/Settlement Deed on 24th February, 2017 by way of the following 4 Demand Drafts:*
- (a)DD No.67965 dated 21.02.2017 for an amount of Rs. 1 crore drawn in favour of M/s Vishal Digital Studio and Color Lab Ltd.*
- (b)DD No.67966 dated 22.02.2017 for an amount of Rs. 1 crore drawn in favour of M/s Vishal Digital Studio and Color Lab Ltd.*
- (c)DD No.67967 dated 23.02.2017 for an amount of Rs. 1 crore drawn in favour of M/s Vishal Digital Studio and Color Lab Ltd.*
- (d)DD No.67968 dated 23.02.2017 for an amount of Rs. 1 crore drawn in favour of M/s Vishal Digital Studio and Color Lab Ltd.*
- D. *That for the remaining balance amount of Rs.1.8 crores, the 2nd party undertakes that upon execution of the present MOU, the 2nd Party and others shall move appropriate applications and do all acts necessary to get the amount of Rs.1.80 crores, as deposited by them jointly (FDR's worth Rs.1.6 crores were deposited with the IO by Mr. Ishoo Narang. Mr. Rudra Raju Shah and Mr. Chandulal Patel at the time of their bail and Rs.20*

lacs were deposited by Mr. Vijay Bhaskar in the Court at the time of his bail), released from the Hon'ble Court/IOI in favour of the 1st Party, which shall be handed over to the 1st Party at the time of making statement before the Hon'ble High Court for Quashing of FIR No.1116/2015, registered U/s: 420/506/467/468/471/120B IPC at PS KN Katju Marg, Delhi. The 2nd Party undertakes to do all acts necessary to get the FDR's credited into the account of the 1st Party upon it's release and shall execute any/all documents to affect the same.

- E. That the 1st Party admittedly is in possession of the original title deeds of property bearing Khataha No.1037 (240/3) situated at Halagevaderahalli, KengeriHobli, Bengaluru in the name of one Mr. B. Channappa, which the 1st party undertakes to return to the Second Party upon making statement before the Hon'ble High Court for Quashing of FIR No.1116/2015, registered U/s: 420/506/467/468/471/120B IPC at PS KN Katju Marg, Delhi.*
- F. That both the PARTIES undertake not to involve themselves directly or indirectly through their agents/ assigns / Directors / Authorised Representatives etc. to file any further complaints / cases / litigations etc. against each other in future after signing the present Memorandum of Understanding / Settlement Deed, as they endeavour to put all disputes between themselves to an end.*
- G. That it is mutually agreed between the PARTIES that upon signing the present Memorandum of Understanding / Settlement Deed, all ongoing disputes between the parties shall be treated as settled/ compromised and none of the parties shall continue to prosecute the other before any government authority or court of law etc. Both the parties further irrevocably agree that they shall withdraw all the cases filed under various enactments if any, before various statutory authorities, tribunals, courts, forums etc. within 15 days from signing the present MOU/ Settlement Deed.*

- H. The 1st Party upon signing the present MOU / Settlement Deed undertakes not object to, and to aid and assist and do all acts necessary for the Director/s of the Second Party in case the need arises to obtain bail in proceedings arising out of FIR No.140/2016 registered U/s: 466/109/420/120B/506/34/468/471/465 IPC at PS Rajarajeshwari Nagar, Bengaluru and any other FIR registered against the 2nd party and its Directors at the instance of the 1st party.
- I. That upon execution of the present MOU, the 1st party undertakes to give it's "No Objection" and aid and assist and do all acts necessary including appearing before the Hon'ble Courts and give statements to quash the proceedings arising out of FIR No.1116/2015, registered at PS KN Katju Marg, Delhi, FIR No.140/2016 registered U/s: 466/109/420/120B/506/34/468/471/465 IPC at PS Rajarajeshwari Nagar, Bengaluru and any other FIR registered against the 2nd party and its Directors. It is mutually agreed that the 2nd party shall file petitions seeking quashing of the aforesaid FIRs before appropriate courts within 15 days from signing the present MOU/Settlement Deed and the 2nd party shall fully cooperate and do all acts necessary for getting the proceedings quashed before the Hon'ble Courts. However, in the event that the above said FIR is not quashed due to any eventuality, the 1st party undertakes not to continue with the prosecution and shall aid the 2nd party to have a cancellation/closure report filed by the state on grounds of the matter being mutually settled.
- J. That similarly the 2nd party undertakes to give it's "No Objection" and aid and assist and do all acts necessary including appearing before the Hon'ble Courts and give statements to quash the proceedings arising out of FIR No.445/2015 registered U/s: 448/506 IPC at PS Madhapur, Hyderabad and FIR No.112/2016, which was registered U/s 420/465/466/467/468/469/471 r/w 120B/109/506 r/w 34 IPC at PS Miyapur, Hyderabad registered against the 1st party and its associates. It is

mutually agreed that the 1st party shall file petitions seeking quashing of the aforesaid FIRs before appropriate courts within 15 days from signing the present MOU/Settlement Deed and the 2nd party shall fully cooperate and do all acts necessary for getting the proceedings quashed before the Hon'ble Courts. All costs and expenses for the same shall be borne by both the PARTIES independently.

- K. That the first party shall aid and assist the Second party and do all acts necessary in getting the Look Out Notice/ Circular issued against the MD and Directors of the Second Party quashed/withdrawn by the appropriate authorities. The both the parties shall immediately upon execution of the present MOU/ Settlement Deed inform the IO of FIR No.1116/2015, registered at PS KN Katju Marg, Delhi of the present settlement and request him to have the LOC withdrawn from the appropriate authority.*
- L. That Mr. Chanchal S Rajora, S/o Late Shri Satyandra Singh Rajora, R/o Sapphire 805, My Home Jewel, Madeenaguda, Miyapur, Hyderabad 500049 aged around 44 years is also a co-accused in the above mentioned FIR No.1116/2015, registered at PS KN Katju Marg, Delhi, who has turned approver. The 1st party assures the 2nd party that they shall make all endavors to ensure that Mr. Chanchal S Rajora fully and unconditionally co-operates in the successfully execution of the present MOU/Settlement Deed in its true letter and spirit.*
- M. That both the PARTIES agree and undertake to withdraw all litigations /cases / legal notices/ public notices (by way of publishing retractions)/ complaints / claims etc. filed by them against the other party and undertake to file appropriate applications within a period of 15 days from signing the present MOU/ Settlement Deed seeking withdrawal of proceedings initiated by them before appropriate forums/courts/ authorities etc.*
- N. That it is mutually agreed between both the PARTIES that upon signing the present MOU/ Settlement Deed and*

upon successful execution of the same all disputes between the parties shall cease to exist and they shall have no cause of grievance / claim / counter claim etc. against each other / nominees / Directors etc. on behalf of the PARTIES or in their personal capacity, qua any dispute past/ present or future.

O. This MOU / Settlement Deed shall immediately become legally enforceable and binding as soon as the parties sign it. It is agreed that after the execution of the terms and conditions states above there shall be no claim whatsoever left between the parties against each other in any manner whatsoever. The parties to this deed shall not object to any proceedings to be filed in pursuance of this agreement and reliefs being obtained. All disputes between the parties to this deed have been completely, fully and conclusively settled.”

It is reiterated by respondent No.2 that it does not wish to pursue any criminal proceedings against the petitioners any further.

The Supreme Court as well as this Court, in several cases, have held that in cases of this kind, the compromise agreement need be respected as the questions in such litigation involves affairs which would not affect public at large.

Considering the fact that the dispute between the petitioners and respondent No.2 arose out of a loan agreement and that the grievance of respondent No.2 stands completely redressed and satisfied, this Court is inclined to quash the proceedings emanating out of FIR No.1116/2015.

Resultantly, FIR No.1116/2015, P.S.K.N.Katju Marg, under Sections 420/467/468/471/506/120B IPC and all proceedings emanating therefrom is quashed.

The IO of the case is directed to hand over the FDRs totalling Rs.1.6 crores deposited by the petitioners No.2 to 4 with him in the name of the respondent No.2 to the authorised representative of respondent No.2 within a period of one week from today so that the same could be encashed by respondent No.2 in its favour.

The writ petition is allowed and disposed of.

ASHUTOSH KUMAR, J

APRIL 17, 2017

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