

§-16 & 17

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

- W.P.(CRL) 2479/2016

JASBIR SINGH & ORS.

..... Petitioners

Through: Mr.Gurinder Pal Singh & Mr.Sidharth
Borah, Advocates

versus

STATE & ORS.

..... Respondents

Through: Mr.Avi Singh, ASC for the State with
Insp.Anil Kumar, EOW
Mr.Tanveer Ahmed Mir & Mr.Kshitij
Kumar, Advocates for R-2 to R-4
with R-2 in person.**AND**

+ W.P.(CRL) 2481/2016

JASBIR SINGH & ORS.

..... Petitioners

Through: Mr.Gurinder Pal Singh & Mr.Sidharth
Borah, Advocates

versus

STATE & ORS.

..... Respondents

Through: Mr.Avi Singh, ASC for the State with
SI Rakesh Kumar, PS Saket.
Mr.Tanveer Ahmed Mir & Mr.Kshitij
Kumar, Advocates for R-2 to R-4
with R-2 in person.**CORAM:****HON'BLE MS. JUSTICE PRATIBHA RANI****ORDER**

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18.12.2017Crl.M.A. Nos.13882/2016, 18567/2016 & 16844/2017 in W.P.(Crl.)
No.2479/2016Crl.M.A. Nos.17135/2016, 18566/2016 & 17010/2017 in W.P.(Crl.)
No.2481/2016In view of the compromise between the parties, the applications are
not pressed.

W.P.(CrI.) No.2479/2016

W.P.(CrI.) No.2481/2016

1. By way of these petitions filed under Article 226 of the Constitution of India, read with Section 482 Cr.P.C., the petitioners are seeking quashing of two FIRs registered against them i.e. FIR No.133/2013, under Section 420/467/468/471/454/380/ 411/120B IPC, registered at PS Kalkaji, Delhi and FIR No.444/2016, under Sections 420/468/471/34 IPC, registered at PS Saket, Delhi.
2. W.P.(CrI.) No.2479/2016 has been filed praying for quashing of FIR No.133/2013, under Section 420/467/468/471/454/380/411/120B IPC, PS Kalkaji, Delhi which was registered against the petitioners namely Jasbir Singh, Harvinder Singh and Navrinder Singh on the basis of complaint made by respondents No.3 and 4 namely Balbir Kaur and Jasbir Kaur through their General Power of Attorney i.e. respondent No.2 Gurdeep Singh Samagh.
3. W.P.(CrI.) No.2481/2016 has been filed praying for quashing of FIR No.444/2016, under Sections 420/468/471/34 IPC, PS Saket, Delhi which was registered against the petitioners namely Jasbir Singh, Harvinder Singh and Navrinder Singh on the basis of complaint dated 20.05.2016 made by respondents No.3 and 4 namely Balbir Kaur and Jasbir Kaur through their General Power of Attorney i.e. respondent No.2 Gurdeep Singh Samagh.
4. Learned counsel for the petitioners and learned counsel for respondent Nos.2 to 4 submit that the parties have arrived at an amicable settlement vide MOU dated 28th June, 2016. (Copy of the MOU dated 28th June, 2016 is placed on record as Annexure-D). All the litigations between the parties have come to an end with this settlement and the parties have also agreed

not to enter into any other litigation in future against each other in respect of the subject matter of these two FIRs i.e. FIR No.133/2013, under Section 420/467/468/471/454/380/ 411/120B IPC, PS Kalkaji, Delhi and FIR No.444/2016, under Sections 420/468/471/34 IPC, PS Saket, Delhi.

5. Learned counsel for the petitioners and respondents No.2 to 4 submit that since the parties are closely related to each other and have amicably settled their dispute vide MOU dated 28th June, 2016, the respondents No.2 to 4 (complainants in both the FIR) do not want to continue with the criminal proceedings registered against the petitioners, hence both the FIR may be quashed.

6. Mr.Avi Singh, learned ASC for the State/R-1 has opposed the prayer of the petitioners for quashing of the criminal proceedings on the ground of settlement between the parties submitting that in this case forged documents were filed before the Land & Development Officer hence the FIRs in question may not be quashed in view of the decision of the Supreme Court in Prabhatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur And Ors. vs. State of Gujarat and Anr. AIR 2017 SC 4843 wherein it was observed as under:-

'15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an

offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash Under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction Under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power Under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate

situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

16. Bearing in mind the above principles which have been laid down in the decisions of this Court, we are of the view that the High Court was justified in declining to entertain the application for quashing the First Information Report in the exercise of its inherent jurisdiction. The High Court has adverted to two significant circumstances. Each of them has a bearing on whether the exercise of the jurisdiction Under Section 482 to quash the FIR would subserve or secure the ends of justice or prevent an abuse of the process of the court. The first is that the Appellants were absconding and warrants had been issued against them Under Section 70 of the Code of Criminal Procedure, 1973. The second is that the Appellants have criminal antecedents, reflected in the chart which has been extracted in the earlier part of this judgment. The High Court adverted to the modus operandi which had been followed by the Appellants in grabbing valuable parcels of land and noted that in the past as well, they were alleged to have been connected with such nefarious activities by opening bogus bank accounts. It was in this view of the matter that the High Court observed that in a case involving extortion, forgery and conspiracy where all the Appellants were acting as a team, it was not in the interest of society to quash the FIR on the ground that a settlement had been arrived at with the complainant. We agree with the view of the High Court. The present case, as the allegations in the FIR

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would demonstrate, is not merely one involving a private dispute over a land transaction between two contesting parties. The case involves allegations of extortion, forgery and fabrication of documents, utilization of fabricated documents to effectuate transfers of title before the registering authorities and the deprivation of the complainant of his interest in land on the basis of a fabricated power of attorney. If the allegations in the FIR are construed as they stand, it is evident that they implicate serious offences having a bearing on a vital societal interest in securing the probity of titles to or interest in land. Such offences cannot be construed to be merely private or civil disputes but implicate the societal interest in prosecuting serious crime. In these circumstances, the High Court was eminently justified in declining to quash the FIR which had been registered Under Sections 384, 467, 468, 471, 120-B and 506(2) of the Penal Code.

17. We do not, for the above reasons, find any merit in the appeal. The Criminal Appeal shall accordingly stand dismissed.'

7. Learned ASC for the State by placing reliance on Prabathbai Aahir @ Parbathbai Bhimsinhbhai Karmur And Ors. vs. State of Gujarat and Anr. (Supra) has not been able to make out as to how the above observations of the Supreme Court in Prabathbai Aahir @ Parbathbai Bhimsinhbhai Karmur And Ors. vs. State of Gujarat and Anr. has applicability to the facts of the present case as it is a case relating to property dispute between the close family members and not a case of bank fraud or economic offence of a nature which may have effect on the financial or economic system.

8. So far as the allegations of forgery against the petitioners are concerned, till date it remained an allegation only. Neither any complaint has been filed by the Land & Development Officer in respect of the alleged forged documents nor the alleged forged documents have been sent to FSI for examination. It is admitted case of the parties that the conveyance deed,

gift deed etc. have already been cancelled which fact has been noted by learned JSCC, South East District, Saket Court in the order dated 4th July, 2016 passed in CS No.141/14. Order dated 4th July, 2016 passed in CS No.141/14 reads as under:-

'04.07.2016

File taken up upon joint application under Order XXIII Rule 1 r/w Section 151 CPC for recording the compromise on behalf of plaintiffs and defendants Nos.1 to 3.

Present : Ms.Jaya Goyal, ld. Counsel alongwith Sh.Gurdip Singh, GPA holder of the plaintiffs.

Sh.R.C.Tiwari, ld. Counsel alongwith defendant nos.1 to 3 in person.

The terms of settlement have been detailed in the application itself. The application has been signed by all the parties on all the pages.

Statement of respective parties have also been recorded today.

GPA holder of plaintiff has given A/c Payee Cheque for ₹25 lakhs bearing No.006141 drawn in favour of Sh.Harvinder Singh, defendant No.2, dated 04.07.2016, drawn on the Federal Bank Ltd., Hauz Khas Branch, New Delhi, to the defendants.

As per the statement, defendants shall handover the vacant possession of the suit property bearing No.E-88, Kalkaji, New Delhi, to the plaintiff on or before 15.07.2016. Terms of settlement as recorded in the joint application have been placed on record as Ex.C-1.

Application under Order XXIII Rule 1 r/w Section 151 CPC for recording the compromise on behalf of the plaintiffs and defendants No.1 to 3 disposed off accordingly.

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Consent decree in terms of the settlement/conditions be accordingly passed.

Defendant No.4 Sub Registrar, Mehrauli, New Delhi and Defendant No.5 Deputy Commissioner (South)/Registrar, D.C.Office, M.B.Road, Saket, New Delhi are accordingly directed to cancel the registration of Gift Deeds dated 05.04.2010 registered vide Registration No.5257 in Additional Book No.1, Vol. No.10009 on pages 188 to 194, registered on 07.04.2010, executed by Sh.Jasbir Singh, in favour of Sh.Harvinder Singh and Gift Deed dated 05.04.2010 registered vide Registration No.5256 in Additional Book No.1, Vol. No.10009 on pages 181 to 187, registered on 07.04.2010, executed by Sh.Jasbir Singh, in favour of Sh.Navrinder Singh and Gift Deed dated 08.10.2012 registered vide Registration No.14212 in Additional Book No.1, Vol.No.12486 on pages 151 to 157, registered on 17.10.2012, executed by Sh.Navrinder Singh, in favour of Sh.Harvinder Singh.

Earlier date i.e. 06.08.2016 stands cancelled.

File be consigned to Record Room.'

9. The dispute in respect of property No.E-88, Kalkaji, New Delhi has been amicably settled by the petitioners with the complainants/respondents No.2 to 4 and the complainants/R-2 to 4 are not willing to continue with the criminal litigation.

10. In view of the legal position laid down in Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257 and the amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

11. Accordingly, both the petitions are allowed and FIR No.133/2013,

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under Section 420/467/468/471/454/380/ 411/120B IPC, registered at PS Kalkaji, Delhi and FIR No.444/2016, under Sections 420/468/471/34 IPC, registered at PS Saket, Delhi as well as the consequential proceedings arising therefrom, are hereby quashed.

Order *dasti*.


PRATIBHA RANI, J.

DECEMBER 18, 2017

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