

\$~30

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

+ **CRL.M.C. 2175/2012 & CrI.M.A. No.49613/2018**

ASHWANI KHATTAR & ANR. Petitioners

Through: Mr.Pradeep K. Bakshi, Adv. with
petitioner no.1 in person.

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr.Mukesh Kumar, APP with
Mr.Sakal Bhushan, Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **13.12.2018**

1. Vide the present petition filed u/s 482 Cr.P.C., the petitioners seek quashing of the complaint being C.C. No.21/2/2012 and summoning order dated 13th March, 2012 whereby the petitioners were summoned for offences under Sections 418/420/427/34 IPC in a matter of alleged breach of contract by the petitioners

2. Learned counsel for the petitioners submits that the petitioners are contractors carrying on the business of construction and had entered into an agreement for development of Property No.C-6/4, Vasant Vihar, New Delhi owned by respondent no.2 He submits that even though the petitioners had received certain amounts as advance from the respondent no.2 due to some misunderstanding between them, the parties could not go ahead with the contract, leading to filing of a complaint case against the petitioners by respondent no.2. He submits that the respondent no.2 had not only filed the criminal complaint wherein presently pre-charge evidence is being recorded,

but had also invoked the arbitration clause wherein the petitioners had filed their counter claim. He submits that the parties have now during the pendency of the arbitration proceedings with the assistance of the learned Arbitrator, decided to amicably resolve all their disputes and have entered into a settlement agreement dated 20th November, 2018. Learned counsel for the petitioner submits that the petitioners volunteer to pay costs, as may be directed by this Court and, therefore, prays that the criminal complaint case alongwith all proceedings emanating therefrom, be quashed.

3. The petitioner no.1 is present in Court and petitioner no.2, who is the wife of petitioner no.1 is stated to be out of station. Learned counsel for the petitioners makes an oral prayer for exemption of respondent no.2 from personal appearance before this Court. He also draws my attention to the order passed by this Court on 02.07.2012 wherein both the petitioners were exempted from personal appearance. The respondent no.2 is also not present and is stated to be travelling due to his professional commitment, is duly represented by a counsel who states that he is fully authorised to make a statement on his behalf. He further draws my attention to the agreement dated 20.11.2018, wherein the respondent no.2 had categorically stated that in view of the settlement arrived at between the parties, he also does not want the criminal proceedings to continue, subject to the amount of Rs.25,000,00/- being returned to him by the petitioners. The said amount of Rs.25,000,00/- by way of a demand draft in the name of respondent no.2 has been handed over to his learned counsel who also prays that the complaint case and all consequential proceedings be

quashed.

4. I have considered the submissions of the learned counsel for the parties and perused the records including the settlement agreement dated 20.11.2018. Keeping in view the fact that the criminal complaint emanates from a dispute arising out of a purely commercial transaction between the parties, which transaction for some reasons, did not materialise, which dispute stands resolved amicably between the parties, no useful purpose will be served in continuing with the criminal proceedings. In these facts of the present case, the continuation of the proceedings will be an abuse of process of law and the ends of justice demand that complaint case alongwith all consequential proceedings be quashed.

5. For the aforesaid reasons, the petition is allowed and the captioned criminal complaint No. 25566/2016 alongwith all consequential proceedings pending before learned Metropolitan Magistrate, Patiala House Courts are quashed, subject to the petitioners paying a sum of Rs.1 lakh as costs to the BSF Welfare Fund, A/c No.10591438648, IFSC Code SBIN0007837 within two weeks from today. A copy of the receipt of deposit of costs will be handed over to the Investigating Officer for production before the learned Trial Court.

6. The petition is disposed of along with the pending application in the above terms.

REKHA PALLI, J

DECEMBER 13, 2018

aa /gm