

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 07.12.2019

1. CRM-M-7454-2016 (O&M)

M/s Delhi Towers Limited

....Petitioner

Versus

State of Haryana and another

....Respondents

2. CRM-M-9396-2016 (O&M)

M/s Ansal Engineering Projects Ltd. and others

....Petitioners

Versus

State of Haryana and another

....Respondents

3. CRM-M-6381-2017 (O&M)

Suresh Dagar

....Petitioner

Versus

State of Haryana and another

....Respondents

4. CRM-M-38970-2018 (O&M)

Vijay Katyal

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Nisha Puri, Advocate for
Mr. Adarsh Jain, Advocate
for the petitioner (in CRM-M-7454 & 9396-2016).

Mr. Gautam Dutt, Advocate
for the petitioner (in CRM-M-6381-2017).

Mr. Vinod S. Bhardwaj, Advocate
for the petitioner (in CRM-M-38970-2018).

Mr. Deepak Grewal, DAG, Haryana.

Mr. Mukesh Rao, Advocate
for respondent No.2 (in all cases).

ARVIND SINGH SANGWAN, J.

This order shall dispose of aforementioned four petitions praying for quashing of FIR No.791 dated 02.12.2015 under Sections 420, 406, 120-B of the Indian Penal Code (for short 'IPC'), registered at Police Station Sector-5, Gurgaon (now Gurugram) and all the consequential proceedings arising therefrom.

Vide order dated 29.03.2019, these cases were referred to the Mediation and Conciliation Centre of this Court for exploring the possibility of some settlement between the parties.

The petitioners, complainant Naresh Aggarwal and Suresh Dagar, the third party, have entered into a settlement/compromise dated 23.04.2019 before the Mediator and the matter has been amicably settled between the parties.

Clause 9 of terms and conditions of the settlement/agreement reads as under:-

“a) That the first party was the owner of the subject property and the first party had obtained the licence regarding the land bearing Rect. No.22, killa No.22 min (1-4), 19 (4-1) in the year 1994 vide licence Nos.32 to 45 dated 30.12.1994.

b) That the second party has duly agreed and undertaken to withdraw all the cases/complaints. The first party shall file quashing petition before the Hon'ble High Court for quashing of FIR and the second party shall fully cooperate the first party for quashing of the same and shall do all acts/deeds and depose and record his statement as per requirement of Court and shall ensure withdrawal and/or disposal of every suit/complaint/FIR pertaining to the subject land pending against the First Party and its directors/officials including FIR No.791 dated 2.12.2015 registered at PS Sector 5 Gurgaon as well as another complaint bearing Crl. Complaint No.COMI/214/2016, COMI/74170/2013, COMI/36311/2018 and COMI/16566/2016 pending before the Court of Sh. Naveen Kumar-I, JMIC, Gurugram without any further condition.

c) That the First Party has given SPA/GPA for the subject land in favour of the second party or his nominee for the purposes, as mentioned above and accordingly has duly executed the same in favour of the nominee of the second party namely Sh. Dinesh Bhardwaj son of Sh. Khem Chand Bhardwaj, resident of 2430, Vishnu Estate, Old Delhi Road, Gurugram and the second party,

do hereby acknowledge the execution of said GPA/SPA in favour of his nominee in terms of mutual settlement as well as compliance of agreed obligations on part of the first party.

d) That the Second Party admits and acknowledges that all the criminal prosecutions referred to above shall come to an end in terms of the instant compromise. The Second Party undertakes to withdraw the complaints listed at serial numbers (a) and (b) hereinabove.

e) That the Second Party admits and acknowledges that the First Information Report referred to above shall also be quashed in terms of the instant settlement, against first and third party. The Second Party undertakes to execute all such documents and to further make statements and also to physically present himself before Hon'ble Court of law or any authority or person for the purpose of quashing of the aforesaid First Information Report.

f) That both the First Party and Second Party admit and acknowledge that they have got absolutely no claim (financial or otherwise) of any nature against the Third Party. The First Party and Second Party undertake not to institute any litigation towards any account against the Third Party. Similarly, upon withdrawal of the criminal complaint/First Information Report referred to above, the Third Party shall not be entitled to institute any litigation of any nature against the First Party and Second Party.

g) Now the parties have agreed that the second party and his above nominee will be entitled to deal with the said land in the manner they like and the first party shall have no objection regarding the same and First Party shall also not interfere in possession of said land which is presently with second party.

h) That the first party has no objection in case the second party or his nominee deposit any fees, if required, by their own with the concerned authorities for the purposes of getting the said land released and first party shall have no objection. In case the said land is released then the first party shall have no claim over the same and the second party and his nominee would be entitled to deal with the land in the manner they like and second party would be fully entitled to alienate, transfer or create third party rights over same after the same is got released.

i) That the first party has agreed vide above attorney that the second party or his nominee shall be authorized to sign all documents, applications, petitions, affidavits in regard to the said land on their behalf without affecting the First Party in any manner, whatsoever and as per law only before any concerned authority/courts and the first party shall have no objection regarding the same.

j) That the first party shall have also no objection in case the second party or his nominee signs, verify, files, submits any application and documents before any Land Acquisition

Department, HSIIDC, HUDA, DTP, Revenue Secretary etc. without affecting the First Party in any manner, whatsoever and as per law only and all such applications which will be filed by second party or his nominee in accordance with law would be deemed to be filed as such on behalf of the first party and the first party shall have no objection regarding the same.

k) That first party on signing of this settlement has relinquished all its rights over the said land & whatsoever petition/documents/applications are filed by second party for release of the said land in it shall be done by second party at their own cost and risk & they shall indemnify the first party of all acts done by second party.

l) It is agreed that if the second party succeeds in getting the acquired land released then the second party or his nominee shall be fully entitled to receive any sale price of the said land in his name and the first party shall have no objection regarding the same and the second party shall also be entitled to get the said property leased out and receive the lease amount in his name and the first party shall have no objection regarding the same.

m) It is also agreed that post release of acquired land as mentioned above the first party shall also not object about any consideration which is received by the second party regarding the said land i.e. by way of gift or sale or mortgage or lease and

all the acts which will be done by the second party would be binding upon the first party and the first party will not lay any claim over the land in future or consideration or money received by the second party or its nominee in the said land after its release.

n) It is further agreed that post release of acquired land as mentioned above, the possession of the said land can be given by the second party or his nominee to any third party and the first party shall have no objection regarding the same and the first party shall also not object to the construction or any other activity which is being carried out in the said land by the second party or his nominee. Besides, the first party shall not in any scenario, except when the second party fails to withdraw Cr. Complaint/FIR and other obligations on his part, cancel the power of attorney given by it to the nominee of second party. That the said POA is irrevocable and would not be cancelled after fulfillment of obligations by second party i.e. after withdrawal of complaints and making the statement before court/police for quashing of FIR on the basis of this settlement.

o) In case, there is breach of compromise by the first party and Third party then in that case present cases which are being settled by way of present compromise would stand revived against the defaulting party and second party would have right to move appropriate application in the respective Courts (Ld.

Trial Court and Hon'ble High Court).

p) It is also agreed that the amalgamated companies whose names will exist in the revenue record will not also have any claim over the land in question and all the companies which have been amalgamated in M/s Delhi Towers Limited shall be bound by the said settlement deed and they will also not raise any claim against the second party or his nominee in future.

q) That the second party shall also be entitled to receive any compensation from any Government department or any statutory authorities regarding the said land and the first party shall have no claim over the same.

r) That the second party shall be fully entitled to appear before the office of Sub Registrar to get the land transferred in his name or name of his nominee from signing of this agreement and they shall be fully liable to pay the stamp duty, registration charges and the first party shall have neither any objection. That first party shall not have any liability of any nature to pay any fee, stamp duty or any charges regarding the same after signing of present settlement agreement.

s) That the second party shall be fully entitled to get their name incorporated in the revenue records or with the concerned department after release of the land at their own costs and the first party shall have no objection regarding the same.

t) That except for the mentioned above i.e. land bearing Rect.

No.22, killa No.22 min (1-4), 19 (4-1), the other land regarding, which the settlement has been entered is not a licensed land and the first party has no claim over the same in future and the second party or his nominee would be entitled to deal with the non-licensed land in the manner they like.”

As per the Full Bench judgment of this Court in **Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, it is held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of **Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543**, has held as under:-

“The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an

end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, all the aforesaid four petitions are allowed and FIR No.791 dated 02.12.2015 under Sections 420, 406, 120-B IPC, registered at Police Station Sector-5, Gurgaon (now Gurugram) and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners.

It is made clear that the parties shall remain bound by the terms and conditions of the settlement/agreement dated 23.04.2019.

[ARVIND SINGH SANGWAN]
JUDGE

07.12.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No