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

Date of Order: February 25, 2019

\+ **CRL.M.C. 3734/2018 and CRL.M.A. 28743/2018**
\+ **CRL.M.C. 3735/2018 and CRL.M.A. 28747/2018**
\+ **CRL.M.C. 3736/2018 and CRL.M.A. 28750/2018**
\+ **CRL.M.C. 3737/2018 and CRL.M.A. 28753/2018**
\+ **CRL.M.C. 3738/2018 and CRL.M.A. 28756/2018**
\+ **CRL.M.C. 3739/2018 and CRL.M.A. 28759/2018**
\+ **CRL.M.C. 3765/2018 and CRL.M.A. 28838/2018**

SUDHIR CHADHA
NARENDER SINGH
SUDESH JAIN
RAJAT JAIN
K L BAJAJ
ANIL KUMAR SHARMA
JASVEEN KAUR .....Petitioners

Through: Mr. Ravinder Kr. Yadav and Mr. Vinayak Sharma, Advocates

Versus

STATE (GOVT OF NCT OF DELHI) & ANR.
GOVT OF NCT OF DELHI & ANR.
STATE & ANR ..... Respondents

Through: Ms. Neelam Sharma, Additional Public Prosecutor for State
Mr. Sachin Datta, Senior Advocate with Mr. Deeptanshu Jain, and Mr. Arpit Dewidi, Advocates for Respondent No. 2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R
(ORAL)

In the above captioned seven petitions, challenge is to impugned order of 28th February, 2018 vide which Revisional Court has remanded back the matter to trial court to obtain fresh status report from the police and then to pass appropriate orders on petitioners' application under Section 156(3) of Cr.P.C.

With the consent of learned counsel for the parties, the above captioned petitions have been heard together and are being disposed of by this common order while treating Crl.M.C. 3734/2018 as the lead case.

Learned counsel for petitioners assails impugned order by relying upon Supreme Court's decision in *Srinivas Gundluri and Others Vs. SEPCO Electric Power Construction Corporation and Others,* (2010) 8 SCC 206 to submit that bare reading of complaint in question discloses cognizable offence and there are sufficient grounds for directing the police to the register the FIR, as the cheating committed by respondent-accused is evident from the fact that respondent-accused's license for the project in question stands cancelled and no plot is available with the respondent-accused to allot it to petitioners. So, it is submitted that impugned order deserves to be set aside and trial court's order of 9th August, 2017 deserves to be restored.

On the other hand, learned senior counsel for respondent-accused submits that the subject matter of this petition has been already resolved in proceedings before the National Consumer Disputes Redressal Commission and the liability of respondent-accused is of purely civil

nature and so, these petitions deserve to be dismissed. Attention of this Court is drawn to paragraph Nos. 9 to 11 of the impugned order to point out that on the basis of ATR, trial court's direction to register the FIR is unwarranted**.**

Upon hearing and on perusal of impugned order, material on record and the decision cited, I find that before acting upon application under Section 156(3) of Cr.P.C., report from local police is called, so that a clear picture emerges. In the instant case, without waiting for the action taken report from the local police, trial court has allowed petitioner's application, which did not find favour with the Revisional Court and rightly so. To see whether ingredients of offence of cheating etc. exist or not, it is required to be seen as to when the respondent-accused had applied for the license. In the face of document (*Annexure-C/1)* it is required to be spell out by trial court as to how *prima facie* case for registration of FIR is made out.

It is true that a settlement has been reached between the parties before National Consumer Disputes Redressal Commission, but respondent-suspect has not abided by the said settlement. However, there is no bar to continuance of civil or criminal proceedings simultaneously and in any case, trial court has to pass appropriate orders on petitioners' application under Section 156(3) of Cr.P.C. after an effective and complete Action Taken Report (ATR) is received from the local police.

In the facts and circumstances of this case, the local police is directed to furnish a comprehensive ATR before trial court within three

months from today. Thereafter, trial court shall proceed further in accordance with the law.

Finding no infirmity in the impugned order, these petitions and applications are accordingly disposed of with aforesaid directions, while refraining to comment upon the merits.

(SUNIL GAUR)
JUDGE

FEBRUARY 25, 2019
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HIGH COURT OF DELHI
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