

\$~5

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

+ CRL.M.C. 3627/2016

SATYAVATI & ORS.

..... Petitioners

Through: Mr. Ajay Kumar, Advocate

versus

STATE & ANR.

..... Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Sonam, PS New Ashok
Nagar.

Mr. Manohar Chandra, Advocate for
with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

%

05.02.2019

The first information report (FIR) No.123/2014 was registered by Police Station New Ashok Nagar on the complaint dated 20.12.2013 of the second respondent Kailash Kothari (the complainant), pursuant to directions of the court of Additional Chief Metropolitan Magistrate (ACMM) under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.). The case arising out of the said FIR involving offences punishable under Sections 448/420/120-B of the Indian Penal Code, 1860 (IPC) is presently under investigation. Allegations have been made against the petitioners in the said FIR as to their complicity in the said offences, the gravamen essentially being that the first petitioner had sold a plot of land bearing No.76, forming part of Khasra No.404/272, admeasuring 60 sq. yds., in Block-A, New Ashok Nagar, Delhi for consideration to the complainant, but it turned out

that the said transaction amounted to cheating inasmuch as the plot of land was under unauthorized construction at the instance of third to fifth petitioners, certain documents having been executed in their favour as well by the first petitioner, the second petitioner being an attesting witness to the same. The complainant had alleged having paid a total amount of Rs.35 lacs to the first petitioner.

The petitioners have come up to this court with the petition invoking inherent power and jurisdiction of this court under Section 482 Cr.P.C. read with Article 226 of the constitution of India to seek quashing of the proceedings in the criminal case on the ground the dispute has been amicably resolved with the complainant, the claim of the second respondent for refund of the money paid by him having been duly satisfied.

The second respondent on notice has appeared and pursuant to the directions in the previous order has sworn an affidavit on 01.02.2019 which has been submitted on record along with attested copy of his driving licence confirming his identity. In the said affidavit, the complainant confirms that he has received his money back from the petitioners and that he has no grievance left against them and he would have no objection if the case arising out of the aforementioned FIR were to be quashed. The second respondent present in court in person with his counsel orally confirms this position.

Having regard to the facts and circumstances of the case, it being clear that the dispute is essentially civil in nature, a case for quashing is made out. [*Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641; and *Gian Singh*

vs. State of Punjab and Anr. (2012) 10 SCC 303].

In the above facts and circumstances, the prayer is granted. The criminal case, and the proceedings, arising out of case FIR No. 123/2014, under Sections 448/420/120-B IPC of Police Station New Ashok Nagar against the petitioners are hereby quashed.

RK.GAUBA, J.

FEBRUARY 05, 2019

vk

CRL.M.C. 3627/2016

Page 3 of 3