

\$~1

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

+ **W.P.(CRL) 922/2020, CRL.M.As.7663/2020 & 7664/2020**

OMPRAKSH GUPTA Petitioner

Through: **Mr. Ved Pal Rana, Advocate**

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through: **Mr. Avinder Singh, ASC for
State**

**Mr. Amit Bajaj, Advocate for
R-2**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

%

22.06.2020

(by video-conference)

1. This petition, under Section 482 of the Code of Criminal Procedure, 1973 (CrPC), prays for quashing of FIR No. 97/2020, dated 13th February, 2020, registered at P.S. Swaroop Nagar, as well as the proceedings following thereupon.

2. The FIR alleged that the petitioner had committed offences punishable under Section 420 of Indian Penal Code (IPC). Subsequently, Section 467, 468 and 471 of IPC were also added, during the course of investigation.

3. The petitioner and Respondent No. 2 (complainant) are

relatives, albeit somewhat removed, Respondent No. 2 being the son of the sister of the husband of the cousin sister of the petitioner.

4. A holistic reading of the FIR, dated 13th February, 2020, reveals that the charge, therein, relates, essentially, to two parcels of land, admeasuring 2 bighas and 2 bighas 10 biswas, located in Khasra Nos. 146 min and 147 in Swaroop Nagar, Delhi. The complainant (Respondent No. 2) alleged that he was the owner of the said parcel of land of having come into ownership and possession thereof *vide* sale deeds dated 14th January, 1998 and 31st July, 1998 respectively. The petitioner, on the other hand, alleges the FIR, was seeking to claim ownership, in respect of part of the land located in the aforesaid two Khasras, on the ground of certain documents, including a general power of attorney, receipt, affidavit, agreement to sell and Will which, according to the allegations in the FIR, were forged and fabricated. Disputing his signatures, as contained in the said documents, wherein the petitioner was claiming title over part of the aforesaid two parcels of land, the FIR alleges that the petitioner had committed theft, criminal breach of trust and forgery, so as to usurp the land of Respondent No. 2.

5. Significantly, however, the FIR admits that the originals, of the registered sale deeds, dated 14th January, 1998 and 31st July, 1998, whereunder Respondent No. 2 claimed ownership of the aforesaid two parcels of land, were in the possession of the petitioner, though it is sought to be alleged that the petitioner had stolen the said documents.

6. Admittedly, no chargesheet has been filed, consequent to registration of the aforesaid FIR.

7. Apparently, the petitioner also filed a civil suit, presently pending before the learned Senior Civil Judge, Rohini, claiming ownership over the disputed land, contained in the aforesaid Khasras nos. 146 min and 147, claiming ownership of the land under cover of the allegedly fabricated documents all of which were dated 3rd March, 2000.

8. Exactly one month and one day from the date of registration of FIR, dated 13th February, 2020, the petitioner and Respondent No.2 arrived at a settlement, which was reduced into writing, *vide* settlement deed dated 14th March, 2020. The settlement deed acknowledges the fact that the FIR had been filed, by Respondent No. 2 against the petitioner, as Respondent No. 2 was disputing the genuineness of the aforesaid documents, dated 3rd March, 2000, whereunder the petitioner was claiming ownership over the disputed land.

9. The settlement deed contains as many as eleven terms of settlement, of which Serial Nos. 1, 2, 3 and 4 read thus:

“1. That the first party is registered owner in respect of 2 Bigha + 2 Bighas 10 Biswas total 4 Bighas 10 Biswas (4500 sq.yds.). The second party is registered owner of 1 Bigha 18 Biswas + 1 Bigha 18 Biswas total 3 Bighas 16,Biswas (3800 sq.yds).

2. That it is agreed between both the parties that both the parties shall remain owner of the land in the manner above stated.

3. It is agreed by both the party by party no. 2 has given up its claim on the basis of documents dated 03.03.2000 and in this respect, the claim of party no. 2 has already been settled amicably with the intervention of Sh. Devender Yadav and now both the parties are satisfied on this issue.

4. That the second party shall not claim right, title, interest and claim on the basis of the documents dated 03.03.2000 stated above, they have not used and shall not use these documents for any purpose in respect of the land mentioned therein, these documents shall be considered to be null and void for all intents and purposes and further those documents and all copies thereof shall be destroyed in the presence of respectable to the satisfaction of both the parties.”

Pursuant to the aforesaid, the parties have agreed, by the settlement deed, to abide by the afore-extracted terms of settlement. It is also recited, in the settlement deed, that the settlement was arrived at, between the parties, with their mutual consent, will and wish and without any force, fraud or coercion, and that all grievances between the parties stand settled. Apparently, the settlement was possible owing to the timely intervention of one Devender Yadav, who acted as a mediator between the petitioner and Respondent No. 2.

10. Consequent on the aforesaid settlement, the present petition has been filed, seeking quashing of the impugned FIR No. 97/2020, as well as all proceedings, consequent thereupon.

11. Mr. Ved Pal Rana, learned counsel for the petitioner and Mr. Amit Bajaj, learned counsel for the Respondent No. 2 have been

heard, as also Mr. Avinder Singh, learned Additional Standing Counsel for the State-Respondent No. 1.

12. Both learned counsel, arguing for the petitioner and the Respondent No.2, have submitted that they wish to settle the dispute and bring, to a close, the proceedings arising out of FIR No. 97/2020, dated 13th February, 2020.

13. Mr. Avinder Singh, learned ASC for the State-Respondent No. 1, opposes the prayer. He places reliance on the judgment of the Supreme Court in *Parbatbhai Aahir v. State of Gujarat*¹, to submit that, in view of the allegations therein, the present FIR cannot be quashed merely because the parties have, *inter se*, settled their disputes. Especial reliance was placed, by Mr Avinder Singh, on para 18 of the said decision, which reads thus:

“18. The present case, as the allegations in the FIR would demonstrate, is not clearly one involving a private dispute over a land transaction between two contesting parties. The case involves allegations of extortion, forgery and fabrication of documents, utilisation 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.”

¹ (2017) 9 SCC 641

(Emphasis supplied)

14. Mr. Rana, learned counsel for the petitioner, submits, on the other hand, that the facts, in *Parbatbhai Aahir*¹ were clearly distinguishable from those of the present. For this purpose, he has drawn my attention to paras 7, 8 and 17 of the report, in *Parbatbhai Aahir*¹, which read thus:

“7. On behalf of the prosecution, the Public Prosecutor opposed the application for quashing on two grounds. First, the appellants were absconding and warrants had been issued against them under Section 70 of the Code of Criminal Procedure, 1973. Second, the appellants had criminal antecedents, the details of which are contained in the following chart submitted before the High Court:

1.	Parbatbhai Bhimsinbhai Karmur	(a) City “A” Division Jamnagar CR No. 1-251 of 2010	P-1
2.	Ramde Bhikha Nanadaniya	(a) City “A” Division Jamnagar CR No. 1-135 of 2016 (b) City “A” Division Jamnagar CR No. 1-105 of 2016 (c) City “A” Division Jamnagar CR No. 1-251 of 2010	P-2 2 2
3.	Hasmukh Hansrajbhai Patel	(a) Gandhinagar M- Case No.1 of 2014 (b) City “A” Division Jamnagar	P-3

		CR No.1-105 of 2016	
4.	Indravadan Dineshbhai Patel	(a) City "A" Division Jamnagar CR No.1-105 of 2016	P-6
5.	Jitendra Somabhai Modi	(a) City "A" Division Jamnagar CR No.1-105 of 2016 (b) Odhav Police Station CR No.1-180 of 2015	P-7
6.	Vishnu alias Toto Rabari	(a) Gandhinagar M- Case No.1 of 2014 (b) City "A" Division Jamnagar CR No.1-105 of 2016	

8. The High Court observed that it had been given "a fair idea" about the modus operandi adopted by the appellants for grabbing the land, in the course of which they had opened bogus bank accounts. The High Court held that the case involves extortion, forgery and conspiracy and all the appellants have acted as a team. Hence, in the view of the High Court, it was not in the interest of society at large to accept the settlement and quash the FIR. The High Court held that the charges are of a serious nature and the activities of the appellants render them a potential threat to society. On this ground, the prayer to quash the first information report has been rejected.

xxx

xxx

xxx

17. 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.”

15. Mr. Rana submits that, unlike the facts which obtained in *Parbatbhai Aahir*¹, his client has no criminal antecedents and there is no allegation of extortion against him. No prior transgression of the law is alleged, in the FIR, against the petitioner. He submits that the present dispute is essentially between two members of the same family, and involved a dispute of ownership, with his client having claimed ownership on the basis of a particular set of documents, the veracity whereof was questioned by Respondent No. 2. He also points out that unlike the situation which obtained in *Parbatbhai Aahir*¹, his client has never absconded, and has cooperated with the investigation.

16. Para 18 of the report in *Parbatbhai Aahir*¹, Mr. Rana would seek to submit, cannot be read in isolation but has to be read in the lights of the facts which obtained before the Supreme Court and in the light whereof the Supreme Court upheld the decision of the High Court. He presses into particular service, in this regard, para 17 of the

judgment reproduced hereinabove.

17. Mr. Rana also draws my attention to the decisions, on which reliance was placed in *Parbatbhai Aahir*¹, especially *Narinder Singh v. State of Punjab*², in which cases, where settlement was arrived at, immediately after registration of the FIR, or very shortly thereafter, and where a chargesheet had yet to be filed, were held to be deserving of a liberal approach,.

18. I have heard learned counsel at length, and addressed myself to the various issues urged at the Bar.

19. In my considered opinion, it may not be possible to analogise the present case with *Parbatbhai Aahir*¹ as Mr. Avinder Singh would seek to urge. The Supreme Court has, times without number, emphasized that enunciations of law, by it, are not to be treated as Euclid's theorems, and have to be appreciated in the light of fact-situation in which they were rendered. [Refer *U.O.I. v. Major Bahadur Singh*³, *Haryana Financial Corp'n v Jagdamba Oil Mills*⁴ and, most recently, *Anuj Jain v Axis Bank Ltd*⁵].

20. *Parbatbhai Aahir*¹ is clearly distinguishable from the case at hand.

21. Paras 17 and 18 of the decision in *Parbatbhai Aahir*¹, if read

² 2014 (6) SCC 466

³ (2006) 1 SCC 368

⁴ (2002) 3 SCC 496

⁵ 2020 SCC OnLine SC 237

conjointly, indicate that, in that case, the High Court had relied, *inter alia*, on the fact that the accused, before it, were absconders, habitual offenders, and had criminal antecedents, having as many as six cases already pending against them. Besides, there were, additionally, allegations of extortion, against the accused in that case, which are absent in the present case.

22. It was also alleged that, as part of the *modus operandi* being followed by the accused, they had opened bogus bank accounts and were acting as a team. No such allegation has been levelled against the petitioner.

23. No doubt, para 18 of the report, in *Parbatbhai Aahir*¹, if read in isolation, seems to support the stand adopted by Mr. Avinder Singh. However, seen in juxtaposition with the other paragraphs of the decision, it would be clear that the present case is fundamentally different from *Parbatbhai Aahir*¹. The petitioner has no criminal antecedents. No allegation of extortion has been leveled against him. He is not an absconder and has, in fact, cooperated with the investigation. There is no allegation that he has opened any bogus bank accounts. It is not, therefore, as though the petitioner is a professional land-grabber.

24. Moreover, the petitioner and the Respondent No. 2 are close relatives, and the controversy essentially arose from around a dispute, regarding the veracity of the documents, whereunder the petitioner was claiming ownership over the lands forming subject matter of the

allegations in the FIR. The petitioner has also filed a civil suit, pressing his rights and title over the lands, which is stated to be presently pending before the learned Senior Civil Judge, Rohini, though Mr. Rana points out that he has already moved an application for withdrawal of the said suit, so that a quietus could be achieved in the matter.

25. A reading of the terms of settlement discloses that the petitioner and the Respondent No. 2 have reconciled, between themselves, regarding ownership of the parcels of land in the aforesaid two Khasras. Serial Nos. 1 to 4 of the terms of settlement clearly indicate that Respondent No. 2 is to be regarded, hereinafter, as the registered owner, in respect of the total area of 4 bighas and 10 biswas (which would include the area forming subject matter of the impugned FIR). The petitioner, on the other hand, is the registered owner of a total area of 3 bighas 16 biswas.

26. Both parties have agreed to remain owners of the said areas, and the petitioner has given up his claim, based on the documents, dated 3rd March, 2000 (the veracity whereof was disputed in the FIR) to the lands contained in Khasras 146 min and 147. The petitioner has also disclaimed all right, title, interest and claims, on the basis of the said documents, and has undertaken to destroy the said documents, forthwith, and not to use them for any purpose.

27. Clearly, the petitioner and Respondent No. 2 desire to bury the hatchet.

28. It is in the backdrop of this settlement, that Respondent No.2 has undertaken to withdraw FIR No. 97/2020, dated 13th February, 2020, and to make a statement, to the said effect, before this Court.

29. In my view, seen as a whole, nothing further survives for adjudication or trial in the FIR No. 97/2020, dated 13th February, 2020. Allowing the FIR to proceed to trial, in the above circumstances, would be a clear exercise in futility, as well as an irreversible drain on valuable court time. The entire dispute was between close relatives, in relation to certain documents, which, according to the petitioner, were genuine, and according to Respondent No. 2, were not. This matter has been settled between the parties, who have amicably agreed to bring an end to the dispute. No meaningful outcome could ensue, by flogging a dead horse.

30. Last, but not least, the settlement, in the present case, has been arrived at within one month of the registration of the FIR, before any chargesheet has been filed or any substantial progress, in the investigation, has taken place.

31. The facts of the present case, in my view, are completely different from those obtaining in *Parbatbhai Aahir*¹. The present case cannot be said to involve societal interest, or prosecuting of any serious crime, as would justify the rejection of the present petition, despite the settlement between the parties. The dictum in *Narinder Singh*², too, would, therefore, require this Court to adopt a liberal approach in the matter.

32. In view of the above discussions, the petition is allowed. The FIR No. 97/2020, dated 13th February, 2020 registered at P.S. Swaroop Nagar, as well as all proceedings following thereupon, are quashed and set aside.

33. Needless to say, the parties shall remain strictly bound by the terms of the aforesaid settlement, dated 14th March, 2020, which includes, *inter alia*, an undertaking, by the petitioner, to destroy the documents, dated 3rd March, 2000, on the basis whereof the petitioner was claiming title to the disputed land.

34. CRL.M.As.7663/2020 and 7664/2020 also stands disposed of.

JUNE 22, 2020
dsm

C. HARI SHANKAR, J