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

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***Reserved on:18.05.2023***  
***Pronounced on:25.07.2023***

+ **W.P.(CRL) 1222/2023 & CRL.M.A. 11411/2023****BHAGAT SINGH & ANR.**

..... Petitioners

Through: Mr. N. Hariharan, Sr.  
 Advocate along with Mr. S.P.  
 Kaushal, Mr. Dhanannjai  
 Kaushal, Mr. Varun Deswal,  
 Mr. Siddharth S. Yadav, Mr.  
 Prateek Bhalla and Mohd.  
 Qasim, Advocates

versus

**STATE (GOVT. OF NCT OF DELHI****AND ANR.**

..... Respondents

Through: Ms. Rupali Bandhopadhyia,  
 ASC for the State with Mr.  
 Akshay Kumar and Mr.  
 Abhijeet Kumar, Advocates  
 and with Insp. Suresh Kumar,  
 P.S. EOW.  
 Mr. Sidharth Luthra, Sr.  
 Advocate along with Mr.  
 Tanmaya Mehta, Mr. Akshat  
 Gupta and Ms. Sakshi,  
 Advocates for R-2.

**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**



## **JUDGMENT**

### **SWARANA KANTA SHARMA, J.**

1. The instant writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of petitioners for quashing of FIR bearing no. 186/2022 dated 27.12.2022, registered at Police Station Economic Offences Wing ('EOW') for the offences punishable under Sections 406/420/120B/34 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, it is the case of the petitioners that they had entered into a collaboration agreement dated 05.11.2012 with the respondent no. 2/complainant, whereby petitioners had agreed to hand over the possession of their land admeasuring 26 acres 5 kanal 0 marla, situated in District Rewari, Haryana, for the development of plotted colony over the said land. As per clause 5 of the Collaboration Agreement, the land was to be developed into a residential colony by 04.01.2016. Respondent no. 2 had agreed to transfer possession of the said land of petitioners and the neighbouring land after developing it within 36 months, with an additional grace period of 2 months. However, it is stated that respondent no. 2 had disregarded the terms and conditions outlined in the said agreement, and despite the clearly stated provisions in the collaboration agreement dated 05.11.2012, respondent no. 2 had not initiated any construction activities on the aforementioned land, and thus, had completely failed to fulfill its obligations as agreed. It is stated that petitioners had continuously approached the officers/ directors of respondent no. 2, urging them to



honour the terms and conditions of the said agreement and to initiate the construction work. However, respondent no. 2 had given false assurances regarding the commencement of work, accompanied by a weak justification for the delay. After that, respondent no. 2 had insisted the petitioners to execute a General Power of Attorney ('GPA') and the same was executed on 25.09.2020, duly registered at the office of Sub-Registrar in Dharuhera, Haryana in favour of respondent no. 2. It is further stated that due to non-compliance of the collaboration agreement and GPA entered into between the parties, the petitioners had no choice but to issue notice on 12.03.2021, calling for execution of a registered deed for cancellation of GPA and the petitioners had got the same executed at the Sub-Registrar's office in Dharuhera, Haryana on 15.03.2021. Furthermore, on 24.03.2021, through another legal notice, the fact that GPA stands terminated had been communicated to respondent no. 2. Thereafter, aggrieved by the execution of deed of cancellation of GPA by the petitioners, the respondent no. 2 had got a revocation deed registered at Dharuhera, Haryana by filing an application and had got the GPA restored, on 05.01.2022. These actions of the respondent no. 2, as per the petitioners, were in contravention of the collaboration agreement as well as the GPA executed between both parties. Aggrieved by the same, on 27.01.2022, petitioners were compelled to lodge a complaint with SHO, Dharuhera, Haryana. Moreover, other landowners had also filed similar complaints with different authorities. In response thereto, the respondent no. 2 submitted a reply dated 26.07.2022. However, FIR was not registered by the said police officers. After that, the



petitioners had filed a complaint under Section 200 Cr.P.C along with an application under Section 156(3) Cr. P.C. After giving due consideration to the facts and circumstances, learned ACJM, 013 Rewari, Haryana had issued directions on 02.08.2022 to register an FIR against the respondent no. 2. In the meantime, petitioners had also moved before the Hon'ble Punjab and Haryana High Court, by way of a writ petition bearing no. CWP No. 26504/2022, challenging the orders of revocation of the deed of cancellation of GPA, and the Hon'ble Punjab and Haryana High Court had then stayed the operation of the order dated 05.01.2022. It is further stated that to counter the legal actions taken by the petitioners and the ongoing proceedings against respondent no. 2 and its officers/directors, a criminal complaint was filed by the petitioners with EOW in New Delhi on 24.08.2022. The investigating agency had asked the petitioners herein to submit a reply which was duly submitted on 27.10.2022. However, EOW disregarded the information provided and proceeded to register the FIR in question against the petitioners.

3. Mr. N. Hariharan, learned Senior Counsel for the petitioners, argues that the case of respondent no. 2 revolves around the alleged wrongful and illegal cancellation of the GPA dated 25.09.2020 by the petitioners, followed by the subsequent revocation of the cancellation. It is argued that the issue of the alleged illegal cancellation of GPA has already been settled by the Hon'ble Punjab and Haryana High Court as the revocation of cancellation has been stayed. It is contended that petitioners had got an FIR lodged which is already under investigation and that respondent no. 2 had admitted in para no.



19 of the present FIR that the matter is already under investigation. It is stated that the present FIR is based on the same set of allegations, despite a significant period having been elapsed since previous complaints were made in Dharuhera, Haryana. It is further argued that prior to the registration of the present FIR, respondent no. 2 had invoked the arbitration clause and voluntarily submitted to the jurisdiction of the Hon'ble Punjab and Haryana High Court to seek the appointment of an arbitrator. It is submitted that the present FIR is nothing but a counterblast to the FIR registered against respondent no. 2. It is also submitted that the land in question, which forms the basis of the present FIR, falls outside the territorial jurisdiction of this Court. Additionally, there is no mention of any facts or evidence establishing territorial jurisdiction of this Court prior to the complaint or FIR being registered. It was further asserted that the collaboration agreement and all other related documents were executed and registered in Haryana, under the jurisdiction of competent authorities. Hence, the agencies in Delhi lack territorial jurisdiction to register or investigate the present FIR. It is also contended that, at best, this case pertains to the breach of contract, which falls within the realm of civil law rather than criminal law. Moreover, it is stated that there is an unexplained delay of 10 years in reporting the matter to Delhi Police, as the alleged offense was committed on 05.11.2012, while the FIR was registered on 27.12.2022. Additionally, it is argued that the present FIR was registered without any preliminary inquiry, which is in clear violation of the notifications by the Ministry of Home Affairs, Government of India which mandates an inquiry prior to the



registration of FIRs if the subject matter pertains to commercial transactions. It is stated that the petitioners have not committed any breach of trust and it is acknowledged by the respondent no. 2 that the disputes between the landowners i.e. the petitioners and them primarily pertain to transactions made in furtherance of the collaboration agreement and the GPA. It is vehemently argued that neither Section 420 nor Section 406 of IPC are made out from the facts and circumstances of the case as there is no evidence to show entrustment, deception or dishonest or fraudulent intent from the beginning of the transaction. It is also contended that the petitioners did not deceive respondent no. 2 by concealing the non-partition of 2-2.5 acres of land or the earmarking of 2 acres of land for public purposes. It is asserted that neither there was any dishonest inducement to believe that possession of the land would be handed over after the grant of Letter of Intent (LOI), nor was there any wrongful obtainment of Rs 13 lakhs from respondent no. 2.

4. Mr. Hariharan further argues that the land in question belongs to the petitioners as well as their extended family and others, and the partition was merely a convenient arrangement. Furthermore, there is no evidence to indicate that the petitioners had knowledge of the earmarking of the land for public purposes. There is nothing on record to suggest that the accused had deliberately concealed the information to prevent the developers from withdrawing from the agreement, which is also evident from the records that concerned authorities had granted the license for the agreed upon 50 acres of land, and not lesser area.



5. It is also argued by learned Senior Counsel that the accused could have been held liable for causing alleged inducement only if they had not handed over the possession in case of the Letter of Intent ('LOI') being granted within the stipulated period of 38 months or if it was granted subsequently on receipt of the repulsive penalty amount. It is vehemently argued that respondent no. 2 had deceived the petitioners in making them believe that they would be paid the penalty amount as paid to other customers and had dishonestly induced the petitioners to enter into the addendum dated 30.07.2019 and to execute the GPA dated 25.09.2020. However, once both the documents were executed, respondent no. 2 had not come forward to fulfill its part of the obligations. It is also contended that respondent no. 2 has deceived the petitioners by making them believe their intention of completing the project within the stipulated period and in default paying the penalty at the agreed price.

6. Mr. Hariharan, learned Senior Counsel for the petitioners, states that it is respondent no. 2 who has dishonestly induced the accused to make them liable and earmark land for the purpose of development which the petitioners would never have done if they would have known that respondent no. 2 would neither complete the project within the stipulated time nor would pay the penalty as agreed and their land would be stuck. It is also stated that all the allegations in the present FIR are false and there were circumstances created by respondent no. 2 which necessitated revocation of the GPA dated 25.09.2020. It is vehemently contended that there is no evidence to support the claim that the petitioners dishonestly or fraudulently



manipulated or concealed any documents with the intention of misleading others into believing that such documents were created or hidden from respondent no. 2. Thus, it is submitted on behalf of petitioners that the impugned FIR be quashed.

7. *Per contra*, Mr. Sidharth Luthra, learned Senior Counsel appearing on behalf of respondent no. 2, states that the case of petitioners rests on the disputed question of facts and investigation in the present case is at an initial stage. It is submitted that this Court cannot go into the correctness of the evidence adduced by the complainant. It is also stated that from the very beginning i.e. from the time of execution of the collaboration agreement, the petitioners along with other land owners, who are their relatives, had acted with dishonest intentions. It is stated that they had no intention to perform their duties and had made false representations to induce the complainant even to enter into the collaboration agreements and part with valuable property. It is contended that the petitioners were paid more than Rs. 20 crores in the year 2012-13 and approximately Rs. 5 crores thereafter, and approximately Rs. 60 crores are invested in the matter. However, respondent no. 2 was enticed by the petitioners to allocate more than 50 acres developed land in the proposed project and the petitioners had made several false representations which have been mentioned in detail in the reply filed on record, regarding 2 acres of land being earmarked for public facilities which could not have been sold by the petitioners. However, they had concealed this fact and still had taken a consideration amount of Rs. 50 lakhs per acres as agreed in the collaboration agreement, including the 2 acres of land



which was non-saleable. It is asserted that the efforts made by respondent no. 2 to overcome these obstacles should not be used to justify or overlook the misrepresentations made by the petitioners. It is submitted that after taking the entire money, the accused had failed to execute the registered sale deed and supplement the collaboration agreement.

8. It is further argued by Mr. Luthra that due to the conduct of petitioners, the first licence application was rejected by the concerned authorities in the year 2013. Thereafter, no money was taken from the complainant and then the sale deed was registered. It is also stated that possession was to be handed over immediately after the issuance of the LOI in the year 2016. However, even after taking the entire amount of more than Rs. 20 crores in April 2013 itself, the petitioners had failed to hand over the possession till the year 2019-20. It is contended that it is the conduct of the petitioners that had caused a considerable delay in the project, as the petitioners wanted more money and wanted wrongful gains from respondent no. 2. It is also stated that petitioners had deliberately obstructed in the process of issuance of licence by writing to the authorities to not grant licence to respondent no. 2. It is asserted that it is the petitioners who had also obstructed the renewal of the licence and had filed a false criminal case against respondent no. 2. Also, the petitioners had wrongfully revoked the irrevocable GPA. It is further submitted that the accused had also threatened to use violence to obstruct respondent no. 2. It is further argued by learned senior counsel that even after 11 years, the petitioners have converted the said land for their own use and have not



cooperated or fulfilled their part of duties as agreed by both parties before entering into various agreements. It is vehemently argued that the GPA and cancellation deed was wrongly presented in Hon'ble Punjab and Haryana High Court when respondent no. 2 was not present. It is also stated that the findings of a civil court do not bind a criminal court and the pendency of civil proceedings is not the ground for quashing the FIR in criminal procedure. It is also stated that this Court has territorial jurisdiction since the complaint filed in Rewari was not disposed of on merits and is, therefore, the first FIR and is maintainable. It is stated that Courts in Delhi have the jurisdiction to deal with the present case as the money was paid by respondent no. 2 to the petitioners out of the bank account of the respondent no. 2 maintained in Delhi. It is also stated that the meetings and handing over of part-consideration based on inducement by petitioners had also taken place in Delhi at the office of respondent no. 2. Hence, there is no reasonable ground to quash the FIR since cognizable offences are made out.

9. This Court has heard arguments addressed by both the learned Senior Counsels at length. The material placed on record has also been perused.

10. Before dwelling into the merits of the case, this Court finds it necessary to refer to and consider the principles governing quashing of FIRs.

11. The Hon'ble Supreme Court had laid down the guidelines for quashing of FIR in *State of Haryana and Ors. vs. Ch. Bhajan Lal*



*and Ors., 1992 SCC (Crl) 426.* The relevant observations are reproduced herein-under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
4. Where the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent



person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

12. In *Neeharika Infrastructure v. State of Maharashtra*, 2021 SCC OnLine 315, the Hon’ble Apex Court has analysed the precedents and culled out the relevant principles that govern the law on quashing of FIR. The Court has held as under:

"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C.



is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may



file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

13. In the case of ***CBI v. Aryan Singh 2023 SCC Online SC 379***, the Hon'ble Apex Court has held that the Courts while exercising its power to quash FIRs have a very limited jurisdiction and they are only required to consider as to "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not."

14. Keeping in mind the above legal precedents laid down by the Hon'ble Apex Court, this Court is of the opinion that in the present case, the plea of the petitioners is that the FIR be quashed since it pertains to allegations which are essentially civil in nature. It is also



stated that the ingredients of Sections 406/420 of IPC are not disclosed from the contents of the FIR.

15. During the course of arguments, both parties had taken this Court through various documents including the collaboration agreements as well as the letters written to the licensing authorities, the complaints filed against each other, and civil proceedings filed before another High Court. Petitioners have tried to convince the Court that the present FIR does not disclose the commission of any criminal offence and, therefore, the same be quashed.

16. However, this Court, guided by the principles laid down by Hon'ble Apex Court in *M/s Neeharika Infrastructure (supra)* and *Bhajan Lal (supra)*, is of the opinion that the discretion to quash an FIR at a nascent stage is to be exercised with caution and circumspection. The golden principles of quashing the FIR have to be strictly followed, more so, in cases where the investigation has just begun. To sum up the principles, it is only if the allegations levelled in the FIR persuade a Court to a conclusion that the allegations levelled in the FIR are patently absurd and the offence could not have been committed on the basis of the material placed on record or it is abuse of process of law, a higher Court should intervene and quash the FIR without even giving an opportunity to the police to investigate the matter and reach a conclusion.

17. In the present case, a perusal of the allegations and counter allegations which have been levelled by the parties against each other regarding the money paid and retained by the petitioners or fulfilment or non-fulfilment of the conditions of the collaboration agreement, or



the allegations that as to whether the land, which was not saleable, the information regarding the same was in the knowledge of the petitioners or not, as to whether the GPA in question was cancelled or revoked with *mala fide* intention, as to whether the actions of petitioners and several complaints filed by them had put roadblocks in the completion of the project and that petitioners did not fulfill their part of conditions and as to whether their actions of not bringing certain facts to the knowledge of the respondent no. 2 amounted to deliberate inducement or not, cannot be gone into by this Court by appreciating the documents placed on record by both the parties in a petition seeking quashing of FIR.

18. This Court notes that the proceedings for quashing of FIR under Section 482 Cr.P.C. or Article 226 of the Constitution of India are not meant for the purpose of appreciating the evidence or examining the correctness of evidence or material on record or even going into the facts of the case as to whether they were correct on the basis of the documents which are placed before a court for quashing of the FIR. These are all, essentially, matters of trial.

19. In relation to the matter of jurisdiction, this Court does not intend to delve deeper into the contents or make any conclusive determinations based on the documents presented before it which are under investigation. Doing so would imply questioning the accuracy of the documents, which could have negative consequences not only for the petitioners but also for respondent no. 2 during the trial. Needless to say, the learned Trial Court in case chargesheet is filed will examine this aspect, as per law.



20. Considering the facts and circumstances of this case, this Court, having a very limited role and being bound by the principles and guidelines laid down by the Hon'ble Apex Court, is of the opinion that the investigation is still underway which has just begun. At this stage, as per law, this Court cannot throttle the proceedings or investigation, when the investigation has not yet been carried out completely.

21. In view thereof, this Court does not find any merit in the instant petition seeking quashing of the FIR.

22. Accordingly, the same stands dismissed, along with pending applications if any.

23. It is, however, clarified that the observations made hereinabove shall not be construed as opinions on merits of the case.

24. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**JULY 25, 2023/zp**