Neutral Citation Number 2023:DHC:2808

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

\+ CRL.M.C. 5746/2022, CRL.M.A. 22643/2022

AMIT PODAR AND ORS ..... Petitioners

Through: Mr.Satya Prakash Sharan, Mr.Yash Prakash Sharan and Mr.Abhishek Kumar, advocates with petitioners in person.

versus

GOVT. OF NCT OF DELHI AND ORS. ..... Respondents

Through: Mr.Raghvinder Verma, APP for the State.
SI Avinash Kumar, PS EOW.
Mr.Mukesh Kalia, Ms.Kanika Vohra and Mr.Mudit Bir Kohli, Advocates for respondents no.2 to 4 with respondents no.2 & 3 in person.

% ***Date of Decision: 18.04.2023***

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed for quashing of FIR No.198/2020 registered under sections 406/120B IPC at PS. Economic Offences Wing. The FIR was lodged on the joint complaint of Sh. Sandeep Jain (Proprietor of Jain sons jewellers & also a partner in *M/s* G.J.Jewels), Nimit Jain (Proprietor of *M/s* Aurum Jewels) & Sanju Sharma

(proprietor of *M/s* Dia Gold trading Company) against the petitioner/alleged persons i.e. (1) Amit Poddar, (2) Ms Kajal Poddar w/o Amit Poddar, (3) Sanjay Tulshiyan (brother in law of Amit Poddar), (4) Sachin Jain @ Manish Jain (proprietor of Mis Happy Impex), (5) Nawal Soni (Proprietor of *M/s* Sri chand Sarwan Kumar Jewellers) & (6) Mr. Karan Singh Soni (Proprietor M/s Bharat Verma Jewellers). In the FIR it was alleged that the Petitioners and the RespondentNo. 2, 3 and 4, are engaged in the business oftrading and manufacturing gold bullion, gold/diamond jewellery etc., had business relations/transactions amongst themselves, which commenced one year prior to the date of the alleged incident. It has been alleged that on 12 March 2020, when complainants visited the office of the petitioners, some stranger was already present, who was introduced as the supplier. Petitioners stated that gold was ready to be delivered at his Chandni Chowk Branch and insisted that the payment had to be made through RTGS in their account before the delivery ofgold. All the victims, on assurance of supplying gold at a much lesser rate than the market rate, paid a total sum of Rs 3,48,75,0001-. However, the said purchased goldwas never delivered and the petitioner started avoiding their phone calls on one pretext or another. The said incident resulted in the filing of the present FIR.

2. Learned Counsel submits that the investigation in the present case is pending. During the pendency of which the parties have reached a settlement vide the settlement dated 17.10.2022. The terms and conditions of the settlement are as under:

1. *That the Parties have amicably agreed to incorporate the **"SALES RETURN"** of the articles valuing a sum of **Rs. 2,42,25000/- (rupees Two Crores Forty Two Lacs Twenty Five Thousand),** which subsequent to the sale of the same by the First Party to some of the members of the Second Party, had been returned by the aforesaid members of the Second Party to the First Party, had remained unaccounted.*

2. *That it has also been amicably agreed to in between and amongst the Parties that after deducting the value of the Sale Return from the alleged sum of Rs.3,48,75000/- (Rs. Three Crore Forty Eight Lakhs Seventy Five Thousand Only) the outstanding Sum of money which remains to be paid to the First Party by the Second Party is **a sum of Rs. 1,06,50,000/-(Rupees One Crore Six Lacs Fifty thousand only) .***

*3.That during the course of negotiations/settlement talks, as held subsequent to the intervention of Near and Dear ones and respectable members of society, it has been amicably agreed between the parties that the present dispute/litigation etc. pertaining to the FIR bearing no.198/2020 dated 16.11.2020 P.S. Economic Offence Wing, Mandir Marg, New Delhi shall stand settled, fully and finally, **after the Second Party collectively pay/repay a sum of Rs. 1,06,50,000/- (Rupees One Crore Six Lacs Fifty thousand only) to the First Party** on account of the aforesaid dispute which is the final settled amount between the parties.*

*4. That the above mentioned settlement amount, of Rs. **1,06,50,000/- Rupees One Crore Six Lacs Fifty thousand only),** has been amicably agreed between the parties to be settled in the following manner:-*

*A. That Sri Amit Poddar shall pay **Rs. 45,00,000/-(Rupees Forty Five Lacs)** which in turn would constitute a sum of **Rs.25,00,000/- (Rupees Twenty Five Lacs only) by way of Demand Drafts** vide No. 211440 valuing a sum of Rs. 10,00,000/- (Rupees Ten Lacs only), No. 211439 valuing a sum of Rs. 10,00,000/- (Rupees Ten Lacs only) and No. 211438 valuing a sum of Rs.5,00,000/- (Rupees Five Lacs only) all dated 13.10.2022 as issued by M/s The Federal bank Ltd., Rabindra Sadan, Kolkata branch favouring the First Party or their concerns (as per the instructions of the First Party) and remaining by way of transfer of his **KIA Seltos car** bearing*

*Registration **No.WB-26-BJ-3100** whose value has been agreed to be a sum of **Rs. 20,00,000/-(Rupees Twenty Lacs approximately)** between the parties to the present MOU.*

B. *That Sri Naval Soni shall hand-over **Old Gold Jewellery valuing a sum of Rs. 34,00,000/- (Rupees Thirty Four Lacs approximately)** to the First Party.*

C. *That Sri Karan Singh Soni shall hand-over **Old Gold Jewellery valuing a sum of Rs. 17,50,000/- (Rupees Seventeen Lacs Fifty Thousand only) .***

D. *That Sri Sachin Kumar Jain@ Manish Jain shall hand-over **Old - Gold Jewellery valuing a sum of Rs. 10,00,000/- (Rupees Ten Lacs approximately).***

E. *That it has also been agreed to between and amongst the Parties that Smt. **Kajal Poddar and Sri Sanjay Tulsiyan shall not be required to pay any sum of money** or to do any other act whatsoever towards the full and Final settlement_ being done in between and amongst the parties through the present MOU.*

*5. That the aforesaid amount is payable to First party within fifteen days from the date of execution of present MOU **OR** as per the instructions of the Hon'ble Courts failing which the present MOU shall cease to hold good.*

6. That subsequent to the signing of the present MOU by the parties herein the Second Party shall prefer a Petition U/s 482 Cr.P.C. before the Hon'ble High Court of Delhi, at New Delhi or before any other Court of Law for quashing of the above mentioned FIR bearing no. 198/2020 dated 16.11.2020, as registered with the Economic Offence Wing, Delhi.

7. That the First Party shall help the Second Party in getting the above mentioned FIR bearing no. 198/2020 dated 16.11.2020, as registered with Economic Offence Wing, Delhi quashed, by participating actively in appropriate proceedings before the courts of law including a petition U/s 482 Cr.P.C. beefore the Hon'ble High Court of Delhi, at New Delh after receiving the full and final settlement amount of Rs.1,06,50,000/- (Rupees One Crore Six Lacs Fifty thousand only) and *the present MOU shall be considered to be **'No Objection Certificate'** regarding the aforesaid settlement.*

***8.** That the First Party will be left with no claim whatsoever against every member of the Second Party after receiving Rs. 1,06,50,000/- (Rupees One Crore Six Lacs Fifty thousand only) from the Second Party as full and Final settlement.*

***9.** That further, in view of the present MOU, it has also been agreed upon by the First Party that it shall not institute any legal case (both Criminal and Civil) whatsoever before any legal forum pertaining to the issue/litigation/dispute involved in FIR bearing no. 198/2020 dated 16.11.2020 as registered with P.S. Economic Offence Wing, Mandir Marg, New Delhi.*

***10.** That the present MOU is being made in 9 copies in Original, one to be retained with each party for all practical purposes, and each of the aforesaid copies to be treated as original even in future. ·*

***11.** That the parties herein, in order to avoid any future dispute, agree that the present MOU pertains to the full and final settlement in terms of all the pending dispute qua the aforesaid FIR bearing no. 198/2020 dated 16.11.2020, as registered with the Economic Offence Wing, Delhi lodged against the Second Party.*

12. That the parties herein, in order to avoid any future dispute, agree that nothing whatsoever pertaining to the present dispute/transaction (qua the above mentioned FIR bearing no.198/2020 dated 16.11.2020) remains outstanding amongst the parties (which includes even amongst the members of the second party)

13. That both the parties have executed the present MOU without any Force, Pressure and coercion from any corner whatsoever and the same are bound by it.

3. The complainant/respondent no.2 and 3 are present in person and have duly been identified by the IO. Respondent No. 3 states that he is the attorney of respondent No. 4. They state that they have entered into the settlement voluntarily and without any fear and coercion. They state

that in terms of the settlement three demand drafts no.253327 of Rs.5 lakhs, 253328 of Rs.10 lakhs and 253329 of Rs.10 lakhs, all dated 10.04.2023 drawn on Kotak Mahindra Bank, Kolkata-Behala in the name of Jainson Jewellers have been received by them today and since the terms of the settlement have been complied with, they have n objection if FIR No.198/2020 registered under sections 406/120B IPC at PS. Economic Offences Wing and all the other proceedings emanating therefrom are quashed.

4. High Courts in the exercise of their inherent power u/s 482 CrPC can quash the proceedings arising out of an FIR either to prevent abuse of the process of the court or otherwise to secure the ends of justice. However, the exercise of such power would depend upon the facts and circumstances of each case. The powers possessed by the High Courts under section 482 CrPC are very wide and the very plenitude of the power requires great caution in its exercise. The High Court would exercise its extraordinary jurisdiction under section 482 CrPC, where it finds that non-interference shall result in abuse of the process.

5. In ***Gian Singh v. State of Punjab***, (2012) 10 SCC 303, ***Narinder Singh v. State of Punjab***, (2014) 6 SCC 466 and ***State of M.P. v. Laxmi Narayan & Ors.***, (2019) 5 SCC 688, the Apex Court has *inter alia* held that the power to quash the criminal proceeding or complaint or FIR in cases where the offender and the victim have settled their disputes would depend on the facts and circumstances of each case and no category can be prescribed. However, before

exercising of such power, the High Court must have due regard to the nature and gravity of the crime. It was held that the criminal cases having overwhelmingly and predominantly civil flavour stand on a different footing for the purposes of quashing. These include offences arising from a 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. It has been held that in this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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.

6. The present case predominantly arises out of the commercial transaction. Except for the commercial transaction, there does not seem to be anyother dispute between the parties. In the commercial world, it is always better and desirable that disputes are settled amicably. I do not see any reason to reject the settlement. It is better to put a quietus to the dispute in view of the settlement agreement between the parties. Parties seem to have entered the settlement voluntarily without any force, fear and coercion.

7. Taking into account the totality of facts and circumstances, the case

FIR No.198/2020 registered under sections 406/120B IPC at PS. Economic Offences Wing and all the proceedings emanating therefrom are quashed.

8. The present petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 18, 2023
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