$~61

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

\+ **<u>CRL.M.C. 1247/2024 & CRL.M.A. 4937/2024</u>**

M/S JKR TECHNO ENGINEERS PVT LTD AND OTHERS ..... Petitioners

Through: Mr. Anuj Kr. Sinha, Adv. with petitioners through V.C.

versus

STATE OF DELHI AND ANOTHER ..... Respondents

Through: Mr. Hitesh Vali, APP for the State with Insp Deep Chand, PS Vasant Vihar.
Mr. Rishabh Sahu, Adv. for complainant through V.C.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>O R D E R</u>

% **20.02.2024**

<u>CRL.M.A. 4938/2024 *(for exemption)*</u>

1. Exemptions allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>CRL.M.C. 1247/2024 & CRL.M.A. 4937/2024</u>

3. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') for quashing of FIR No.37/2020 dated 03.03.2020 for offence under Section 420/406/34 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Vasant Vihar, including all consequential proceedings emanating therefrom.

4. The said FIR was registered on a complaint given by Respondent No. 2.

5. It is alleged that Petitioner No. 1 along with Petitioner No. 2 and 3 took a joint loan of ₹1,50,00,000/- from Respondent No.

2 in the year 2015. The Respondent No. 2 bank sanctioned the non-residential premises loan *vide* sanction letter dated 22.01.2015 for purchase of commercial property Unit No. 308, 3rd Floor, K.M. Trade Towers, H-3, Sector-14, Ghaziabad, U.P (hereafter 'the said property'). Respondent No. 2 alleged that the petitioners have not handed over the original sale deed of the said property duly registered in the year 2015. The seller had collected the original Sale Deed from the office of the Sub-Registrar and handed it over to the petitioners instead of Respondent No. 2.

6. In the meantime, since the petitioners were going through the financial problem and were unable to pay EMI to the Respondent No.2 regularly, the SARFAESI proceeding was also initiated by the Respondent no. 2 and thus the Himalaya Drug Company, the last purchaser of the said property, filed a civil Suit (Comm) No.507/2019 against the petitioners and Respondent No.2, praying for permanent injunction and recovery of the sale price from the petitioners.

7. The Respondent No.2, when came to know of the sale of the said property to the Himalaya Drug Company, filed a complaint which led to registration of the present FIR in the year 2020 and also alleging non-handing over of the original sale deed to the Respondent no.2 since the petitioner had already sold the property to the Himalaya Drug Company hence was unable to hand over the original sale deed to the Respondent No.2. From the contents of the FIR is evident that it was also the duty of the seller of the property to hand over the original sale deed of the said property to the Respondent no.2 but instead of handing over, the same to the Respondent no.2, it was handed over to the

petitioners. The petitioners were fully aware of the liability to hand over the original title deed to the Respondent No.2.

8. It is submitted by the learned Counsel for the parties that the petitioners and the Respondent No.2 with the intervention Delhi Mediation Centre, Rouse Avenue District Courts, New Delhi, have now amicably settled their disputes *vide* Mediation settlement dated 24.03.2023, wherein the Respondent No.2 has undertaken to co-operate in quashing the present FIR. In terms of mediation settlement, the Respondent No. 2 has received the entire amount and, the Himalaya Drug Company had also withdrawn the Suit No. CS (Comm) 507/2019.

9. The learned counsel for complainant appears through video conferencing and submits that he has instructions to state that he has no objection, if the FIR is quashed. He submits that the entire money stands paid and other proceedings have been settled and withdrawn.

10. The offences under Sections 420 and 406 of IPC are compoundable in nature. Keeping in view the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no useful purpose would be served by relegating the parties to the learned Trial Court for filing an application to compound the offence.

11. However, keeping in mind the fact that State machinery has been put to motion, and the fact that charge sheet has already been filed, ends of justice would be served if the parties are put to cost.

12. In view of the above, FIR No. 37/2020 and all consequential proceedings arising therefrom are quashed, subject to payment of cost of ₹20,000/- by the petitioners, out of which ₹10,000/- is to be deposited with the Delhi Police Welfare Fund

and ₹10,000/- is to be deposited with Bar Council.

13. The present petition is allowed in the aforesaid terms.

14. Pending application is also disposed of.

AMIT MAHAJAN, J

FEBRUARY 20, 2024
"SK"