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

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Date of Decision: 20.02.2024

+ CRL.M.C. 1366/2024

MANOJ KUMAR AGARWAL & ORS.

..... Petitioners

Through: Mr. Vijay K. Gupta and Mr. Mehul Gupta, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Ms. Kiran Bairwa, APP with Inspector Lalit Kumar, PS: Model Town and SI Shivendra Singh, PS: Subhash Place.
Mr. Siddharth Dutta, Advocate with Respondent No. 2 through VC.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

CRL.M.A. 5419/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 1366/2024

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of FIR No. 403/2012, under Sections 420 IPC, registered at P.S.: Subhash Place, Delhi and the proceedings emanating therefrom.
2. Issue notice. Learned APP for the State and learned counsel for respondent No. 2 along with respondent No. 2 through VC appear on advance notice and accept notice.



3. In brief, as per the case of the petitioners, BTM Exports Limited respondent No. 2 through its Director entered into a transaction with petitioner No. 5 through its Directors (petitioner Nos. 1 to 3) and petitioner No. 4 for transportation of iron ore fines from Deojhar Railway Siding to Vizag Port in Railway rakes. A sum of Rs. 1.40 crore was paid by respondent No. 2 in bank account of petitioner No. 5. However, due to issue with reference to documents of lading, the iron ore fines could not be transported. A civil suit CS(OS) 2940/2011 for recovery of Rs. 1.40 crore was preferred by respondent No. 2 against petitioner No. 5, which has been settled in terms of order dated 25.01.2024.

4. Learned counsel for the petitioner submits that present FIR was registered on complaint of respondent No. 2, wherein, the petitioners have been granted anticipatory bail subject to deposit of 50% of the claim amount. It is urged that civil proceedings have been given a criminal shade, which have been settled in CS (OS) 2920/2011 as referred to above.

5. Learned APP for the State submits that in view of amicable settlement between the parties, the State has no objection in case the FIR in question is quashed.

6. Respondent No. 2 appears through VC and submits that matter has been settled in terms of order dated 25.01.2024 passed in CS(OS) 2940/2011.

7. Petitioner in the present case seeks to invoke the powers under Section 482 of Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of any Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalised list or categories can be prescribed. However, the Court is



required to give due regard to the nature and gravity of the offence and consider the impact on the society.

8. The dispute between parties mainly relates to commercial civil dispute. In view of settlement between the parties, no purpose shall be served by keeping the proceedings pending. Keeping in view the totality of the facts and circumstances of the case, this court is of the opinion that the continuity of proceedings would be an abuse of process of court. Consequently, FIR No. 403/2012, under Sections 420 IPC, registered at P.S.: Subhash Place, Delhi and the proceedings emanating therefrom stand quashed. Personal Bond / Surety Bond furnished on behalf of the petitioners stand discharged.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to the learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

FEBRUARY 20, 2024/R