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

+ CRL.M.C. 2160/2020 & CRL.M.As. 19702/2021, 4123/2022

ASSOTECH LIMITED AND ANR

.....Petitioners

Through: Mr. Rishi K. Awasthi & Mr. Amit V.
Awasthi, Advocates with P-2
appearing through VC.

versus

STATE OF NCT OF DELHI AND ORS.

.....Respondents

Through: Ms. Richa Dhawan, APP for State.
Mr. Sarthak Jain, Advocate for R-2 &
3.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

05.08.2024

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1. The present Petition under Section 482 of the Code of Civil Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been jointly filed on behalf of the petitioners and the respondent Nos. 2 and 3 seeking to quash the FIR No. 0033/2017 registered under Section 420 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC, 1860"*) at Police Station Badarpur, Delhi.

2. Brief facts of the case are that the petitioner Nos. 2 to 4 on behalf of the petitioner No. 1-Company involved in the business of real estate development, approached the respondent No. 2 in the year 2013 seeking a loan to complete the project called "*Assotech Windsor Court*".

3. The petitioner No. 2-Sanjeev Srivastava, on behalf of petitioner No. 1- Assotech Limited, entered into a Loan Agreement dated 30.06.2013



with the respondent No. 2-Apogee Enterprises Pvt. Ltd., whereby the petitioner No. 1-Assotech Limited received a loan of Rs. 2,00,00,000/- from the respondent No. 2-Apogee Enterprises Pvt. Ltd. with an interest @ 18% per annum to be paid within a period of one year i.e., by 01.07.2014 and certain units in the said Project were allotted to the respondent No. 2-Apogee Enterprises Pvt. Ltd. as security for the entire amount of the loan so advanced.

4. In consideration of the Loan Agreement dated 03.06.2013, the petitioner No. 2-Sanjeev Srivastava also executed a Deed for Personal Guarantee for the Loan Agreement dated 01.07.2013, whereby the petitioner No. 2-Sanjeev Srivastava unconditionally, absolutely and irrevocably guaranteed the respondent No. 2-Apogee Enterprises Pvt. Ltd. the due and punctual payment of all the amounts payable by the petitioner No. 1-Assotech Limited under the Loan Agreement dated 30.06.2013.

5. The disputes arose between the parties in relation to the performance of the Loan Agreement dated 30.06.2013 as well as the Deed for Personal Guarantee for Loan Agreement dated 01.07.2013.

6. It is further submitted that in the year 2017, on the complaint of respondent No. 2-Apogee Enterprises Pvt. Ltd., an FIR bearing No. 0033/2017 under Section 420 of the IPC, 1860 got registered at Police Station Badarpur, Delhi against the petitioners and also the Petition bearing No. OMP(I) (COMM) 44/2017 under Section 9 of the Arbitration and Conciliation Act, 1996 has been filed against the petitioners.

7. The investigations in the FIR No. 0033/2017 are being done by the Economic Offences Wing, Mandir Marg, Delhi and a Notice dated 21.09.2020 to this effect has also been issued by the Economic Offences



Wing, Delhi to the petitioner No. 2-Sanjeev Sriavastava directing him to appear at its Office i.e., EOW on 28.09.2020.

8. It is also submitted that the parties have amicably settled all the disputes *inter se* them pertaining to the said FIR No. 0033/2017 and the terms of the said Settlement were duly recorded in the joint application for withdrawal being I.A. No. 96942020 filed in OMP(I) (COMM) 44/2017, wherein which *inter alia* states as under: -

“a. That over and above the amounts already paid by the Respondent to the Petitioner, the Respondent undertakes to pay an amount of Rs.17,00,000/- (Rs. Seventeen Lakhs Only) (“settlement amount”) to the Petitioner in two instalments of Rs.8,50,000 (Rs. Eight Lacs, Fifty Thousand Only) each.

b. That against the first instalment of the said settlement amount, the Respondent has already handed-over a Demand Draft drawn on Corporation Bank bearing No.108381 dated 16.10.2020 for an amount of Rs.8,50,000 (Rs. Eight Lacs, Fifty Thousand Only) in favour of the Petitioner.

c. That simultaneously upon withdrawal of the instant matter being OMP(I)(COMM) 44/2017 along with withdrawal of all other ancillary applications including pending Contempt Petition i.e. CCP(O) No.20 of 2017, CCP (O) No. 67 of 2018, CCP (O) No. 11 of 2019 and CCP (O) 42 of 2019 before the Hon’ble Delhi High Court;

i. The Petitioner shall withdraw the following complaint cases initiated by the Petitioner against the Respondent under Section 138 of the Negotiable Instructions Act, 1881 for dishonour of various cheques, as below:

S.No.	Case Details	Forum
1.	Complaint Case No.1409/2019 (Against dishonour of Cheque bearing no.815247 dated 30.08.2018 for an amount of Rs.40,00,000/-)	Saket District Court



2.	<i>Complaint Case No.1551/2019 (Against dishonour of Cheques bearing no.815248 dated 30.09.2018 for an amount of Rs.20,00,000/- and 815249 dated 15.10.2018 for an amount of Rs.15,00,000/-)</i>	<i>Saket District Court</i>
3.	<i>Complaint Case No.4890/2019 (Against dishonour of Cheque bearing no.815250 dated 31.12.2018 for an amount of Rs.25,00,000/-)</i>	<i>Saket District Court</i>

ii. The Petitioner shall make a statement before the Investigation Officer, Economic Offences Wing (EoW)/ concerned police officer, investigating the FIR lodged by the Petitioner against the Respondent, being FIR No.33/17, u/s 406 and 420 of the Indian Penal Code, PS-Badarpur (presently pending with EOW), Delhi that the Parties have entered into the instant settlement in respect of the matter.

iii. The Respondent shall make the payment towards the second instalment of the settlement amount by way of hand-over to the Petitioner of a Demand Draft of Rs.8,50,000 (Rs. Eight Lacs, Fifty Thousand Only) in favour of the Petitioner on 21.10.2020.

d. Upon the receipt by the Petitioner of the second instalment of the settlement amount by Demand Draft, both parties will jointly:

i. File a petition for quashing of the FIR bearing FIR No.33/17, u/s 406 and 420 of the Indian Penal Code, PS- Badarpur (presently with EOW), Delhi, before the Hon'ble Delhi High Court on the basis that the matter stands settled between the parties; and

e. In the event the Respondent fails to hand over the demand



draft for the second instalment of the settlement amount within the period contemplated, the instant settlement between the parties shall stand null and void. The first instalment of the settlement amount to the tune of Rs.8,50,000 (Rs. Eight Lacs, Fifty Thousand Only) shall stand forfeited by the Petitioner and all claims of the Petitioner in terms of the Loan Agreement dated 30.06.2013 read with Deed for Personal Guarantee for Loan Agreement dated 01.07.2013 shall stand revived, with the Petitioner being at the liberty to pursue all remedies available to it under law.

f. That both parties confirm that with the fulfilment of the obligations in terms of the instant settlement, they will have no claims, grievances or cause of auction of any kind, against each other and nothing further is expected of either of the parties towards the other.”

9. In view of the aforesaid Settlement, the present petition has been jointly filed on behalf of the petitioners and the respondent Nos. 2 and 3.

10. The petitioner No. 2 and the respondent No. 3 are appearing through video conferencing today, and they have been identified by their counsel and Investigating Officer concerned.

11. The parties have submitted that all the disputes have been amicably settled *vide* Settlement so recorded in the Order dated 23.10.2020 in I.A. 9694/2020 filed in OMP(I)(COMM) 44/2017 and thus, no fruitful purpose will be served in continuing with the FIR.

12. The present petition has been signed by the petitioners and the respondent Nos. 2 and 3 and is supported by their affidavits. The parties have endorsed and reaffirmed the terms of the settlement and they also submit that the said settlement has been arrived at between the parties without any pressure and coercion.

13. Today, the complainant/respondent No. 2, which is a Company



represented through respondent No. 3, who is present through video conferencing, states that he settled all the disputes with the petitioners and has no objection if the FIR is quashed.

14. In view of the above facts that the parties have amicably resolved their differences out of their own free will and without any coercion and no useful purpose will be served in continuing with the proceedings, rather the same would create further acrimony between them. Hence, it would be in the interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto.

15. Moreover, there is no legal impediment in quashing the FIR in question.

16. Accordingly, FIR bearing No. 0033/2017 registered at Police Station Badarpur, Delhi, for offences punishable under Section 420 of IPC, 1860 and all consequential proceedings emanating therefrom are quashed.

17. The petition stands disposed of along with pending applications.

NEENA BANSAL KRISHNA, J

AUGUST 5, 2024

S.Sharma