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

+ **TR.P.(CRL.) 69/2019 & CRL.M.A. 30843/2023**

AVDHESH KUMAR GOEL & ORS.

..... Petitioners

Through: Mr. Alok Kumar Pandey, Mr. Kunal Prakash, Ms. Muskaan Dewan and Mr. Shekhar Sharma, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Ms. Shubhi Gupta, APP for the State with Insp. Sanjay Kr., PS: EOW.

Mr. Mohit Kumar, Advocate for R-3 and R-4.

Mr. Narender Singh Yadav, Mr. Manu Prakash Upadhyay, Mr. Abhishek Yadav and Mr. Mayank Singh, Advocates for Intervenor.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

06.02.2024

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1. This petition has been filed on behalf of the Petitioners under Section 407 read with Section 482 Cr.P.C. for transfer of FIRs No. 398/2017, 107/2016, 79/2017, 102/2017 and 107/2018 to the Court of learned ACMM, Central District, New Delhi, which is currently trying FIRs No. 111/2016, 112/2016, 113/2016, 43/2016 and 179/2017. In the alternative, it is prayed that all cases arising out of the aforementioned FIRs be transferred to the competent Court in a single District.



2. It is the case of the Petitioners that Petitioners are Directors of a company namely M/s Earth Infrastructure Ltd. and its group Companies, duly incorporated under the provisions of Companies Act, 1956. Companies proposed to develop real estate projects and several investors invested in the upcoming projects. The Companies invested huge sums of money and made all efforts to complete the projects within the stipulated time, however, due to prevailing market circumstances, distressed economy and force majeure circumstances, projects could not be completed in time. Insolvency proceedings have also been initiated against the Companies by several investors and an Insolvency Resolution Professional has been appointed by NCLT to take over the management and assets of M/s Earth Infrastructure Ltd. and its group companies. Several FIRs have been lodged agisant the Companies all over the country, amongst which 11 are in Delhi and are pending before Metropolitan Magistrates in different Districts. 5 of 11 FIRs are registered with Economic Offences Wing and charge sheets have been filed. Cases are at the stage of framing the charges. The remaining FIRs are registered with different police stations and are pending in Patiala House Courts. In these circumstances, it is prayed that all cases arising out of the 11 FIRs be either transferred to one District or the ones pending before the Patiala House Courts be transferred to District Courts, Tis Hazari. It is stated that the transfer would expedite the disposal of the cases and would be convenient to the parties. Reliance is placed on the judgment of this Court in ***H.B. Chaturvedi v. State & Anr., 2014 SCC OnLine Del 2400***, where the Court had transferred 11 cases initiated against the Petitioner by CBI and 3 by the Delhi Police to a single Court.



3. Learned APP appearing on behalf of the State opposes the transfer petition and submits that some of the FIRs pertain to EOW while others relate to offences under the IPC. There is no commonality in the cases sought to be transferred either in terms of subject matter or cause of action or witnesses and the Complainants are located at different places. According to the learned APP, the cases are proceeding expeditiously in the respective Courts and bringing them together would derail the trial.

4. I have heard the learned counsel for the Petitioners and the learned APP for the State.

5. Section 407 Cr.P.C. empowers this Court to transfer cases for reasons mentioned therein. Petitioners have invoked sub-Section (1)(c) of Section 407 Cr.P.C. to seek transfer. A bare reading of the petition shows that the reasons spelt out for seeking transfer are: general convenience to all parties and the witnesses, who are common in all the cases in travelling to various Courts on different dates. In the judgment relied upon by the Petitioners in the case of ***H.B. Chaturvedi (supra)***, the Court noticed that there was commonality in the pattern of transactions, manner of defrauding the financial institutions and more particularly, more than 5 witnesses were common, which was an important consideration in the context of Section 407(1)(c) Cr.P.C. There is no averment in the present petition that the transactions or the method of defrauding or the documents are common. There is also no averment as to how the witnesses, if any, are common to all the FIRs, which is a finding of fact rendered by this Court in ***H.B. Chaturvedi (supra)***. In fact, to the contrary, the State has urged that there is no commonality and it would be prejudicial to the Complainants, if all the FIRs are transferred to one Court or any one District. Going by the



averments in the petition, Petitioners have failed to make out a case for transfer as sought.

6. There is no merit in the petition and the same is accordingly dismissed along with pending application.

JYOTI SINGH, J

FEBRUARY 06, 2024/shivam