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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 3303/2023, CRL.M.A. 30749/2023 & CRL.M.A.
30751/2023

SH MAHESH TULSIANI & ANR. Petitioners

Through: *Appearance not given.*

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Yasir Rauf Ansari, ASC for the
State with SI Chetan, P.S. Swaroop
Nagar and with Mr. Alok Sharma and
Mr. Vasu Agarwal, Advocates.
SI Pardeep Kumar, DIU/South-West.
Ms. Parul Sharma, Advocate for R-2.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
07.05.2024

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1. The present petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioners seeking quashing of the case arising out of FIR bearing No. 0050/2018, registered at Police Station Safdarjung Enclave, New Delhi, for offences punishable under Sections 406/420/120B of the Indian Penal Code, 1860 ('IPC'), and all the consequential proceedings emanating therefrom.
2. Issue notice. Mr. Yasir Rauf Ansari, learned ASC accepts notice on behalf of the State.



3. Both the petitioners and respondent no. 2 are present before this Court in-person, and have been identified by their counsel and Investigating Officer (I.O.) SI Pardeep Kumar.

4. Brief facts of the case are, that on 25.09.2012, respondent no. 2 was allegedly allotted Flat No. 202A, 2nd Floor, admeasuring 2967 sq. Feet, under the project name “*Tulsiani Golf View Apartments*”, Big Sky, Tower-2, at Sector-1, Pocket-D, Sushant Golf City, Amar Shaheed Path, Sulanpur Road, Lucknow, Uttar Pradesh, for a total consideration of Rs. 40,00,000/-. It is stated that on 28.02.2018, the said FIR was lodged against the petitioners and respondent nos. 3 and 4, at the instance of respondent no. 2. It is further stated that in 2019, the respondent no. 2 had filed a petition under Section 7 of the I & B Code, for initiation of the CIRP against the TCDL, before the Hon’ble NCLT, Delhi. It is stated that on 21.09.2019, a settlement agreement was executed amongst the TCDL (*‘Tulsiani Construction and Developers Ltd.’*) and respondent no. 2, to settle the dispute for Rs. 47,04,100/-. Pursuant to the said agreement, TCDL had paid Rs. 21.76 Lakhs to the respondent, in settlement. Thereafter, the NCLT petition was withdrawn by respondent no. 2. However, due to non-performance on the part of respondent no. 2, the said settlement failed. The parties later entered into another final settlement dated 30.09.2023, wherein the remaining settlement amount was decided as Rs. 25,00,000/-. Hence, the present petition has been filed.

5. Learned counsel appearing on behalf of the petitioners states that since the petitioners have already settled their disputes with respondent no. 2, as per the MOS dated 30.09.2023, hence the present FIR be quashed.

6. Learned counsel for respondent no. 2 submits that respondent no. 2



has entered into compromise out of her own free will, and without any pressure, coercion or threat. It is also stated by respondent no.2 that the entire dispute has been amicably settled between the parties. Today, respondent no. 2, who is present in Court, states that she has received the remaining amount of Rs. 20,00,000/- (Rupees Twenty Lakhs Only), *vide* DD No. 159503, drawn on The Federal Bank Limited, Hauz Khas, New Delhi, and has no objection if the FIR is quashed.

7. *Per contra*, learned ASC appearing on behalf of the State submits that since, there are more accused persons in the present FIR other than the present petitioners, it is thus submitted that in view of the same, the FIR cannot be quashed against all the accused.

8. This Court has heard arguments addressed on behalf of the parties and has perused the material placed on record.

9. In view of the above facts that the parties have amicably resolved their disputes out of their own free will, and without any coercion, no useful purpose will be served by continuing the proceedings, rather the same would create further acrimony between them.

10. This Court further notes that there are other accused persons also in the present FIR, and the settlement has only taken place between the respondent No. 2 and the present petitioners, who are also accused in the present FIR. It would thus be in interest of justice to partly quash the FIR in question, *qua* respondent no. 2, and the proceedings pursuant thereto.

11. Accordingly, FIR bearing No. 0050/2018, registered at Police Station Safdarjung Enclave, New Delhi, for offences punishable under Sections 406/420/120B of the IPC and all consequential proceedings emanating therefrom are partly quashed, *qua* respondent no. 2, subject to the petitioners



depositing the cost of Rs. 10,000/-, with the Advocates' Welfare Fund, Saket Courts, New Delhi, within a week. Copy of the receipt be also filed with the Registry to show compliance of the order.

12. It is clarified that, as far as the other victims in the present case are concerned, the present FIR is not quashed *qua* those victims; and the investigation may proceed as per law.

13. The present petition stands disposed of. Pending applications also stand disposed of.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 7, 2024/at

[Click here to check corrigendum, if any](#)