



2024:DHC:9989



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on:24.12.2024

+ **CRL.M.C. 6436/2019, CRL.M.A. 42616/2019 & CRL.M.A. 42618/2019**

MARIO ANTHONY NAZARETH Petitioner

versus

STATE & ANR. Respondents

+ **CRL.M.C. 6459/2019, CRL.M.A. 42679/2019 & CRL.M.A. 42681/2019**

ARUN NANDA Petitioner

versus

STATE & ANR. Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Madhav Khurana, Ms. Shaurya Singh,
Mr. Ajay Bhargava, Mr. Arvind Kumar Ray,
Mr. Kabir Chhilwar & Ms. Anushka Bagla,
Advs.

For the Respondents : Mr. Sunil Kumar Gautam, APP for the
State
SI Mandeep, PS- Saket

CORAM



HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petitions are filed essentially seeking quashing of FIR No. 176/2019 dated 24.04.2019, registered at Police Station Saket, for offences under Sections 420/468/471/34 of the Indian Penal Code, 1860 ('IPC'), including all consequential proceedings arising therefrom.

2. The petitioners have also challenged the order dated 16.04.2019 (hereafter '**impugned order**'), passed by the learned Additional Chief Metropolitan Magistrate ('ACMM'), South District, Saket Court, Delhi, in Case No. 9386/2018, whereby the investigating authorities were directed to register an FIR against the petitioners.

3. The brief facts of the case are as follows:

3.1. Respondent No.2 had filed a Civil Suit, bearing, CS No. 534/2018 (hereafter '**the civil suit**'), against the petitioners and others, *inter alia*, seeking grant of decree of declaration that the act of petitioners in reconstituting the Board of Trustees of Public Health Technologies Trust ('PHTT') is illegal and void. It was alleged in the suit that the petitioner Arun had manipulated the complainant into paying the loan of PHTT to RBL Bank, and consequently, discharging his personal liability. During the proceedings, the petitioners gave certain documents in their respective written statements. The said documents are as follows:



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- Board Resolution dated 07.03.2018, noting that Respondent No.2 has ceased to be a trustee of PHTT. The same was signed by the petitioner Mario;
- Board Resolution dated 07.03.2018 whereby it was resolved that the petitioner, Mr. N Ramachandran and Dr Subhash Salunke would be authorised to operate the account of PHTT with HDFC Bank, Green Park Extension, New Delhi. The same was signed by the petitioner Mario;
- Letters dated 08.03.2018, informing Indusind Bank, Vasant Kunj and HDFC Bank, Green Park Extension about the change of trustees of PHTT and a consequent change in authorised signatories. The letters were signed by the petitioner Mario;
- Board Resolution dated 03.04.2018 resolving that MM Sardana and Neeraj Bansal are appointed as trustees of PHTT. The same was signed by the petitioner Mario;
- Board Resolution dated 16.04.2018, appointing the petitioner Mario as the Authorised Representative of PHTT for the subject suit. The same was signed by the petitioner Mario.

3.2. Upon receipt of the written statements, Respondent No.2 filed a complaint against the petitioners with the Economic Offences Wing, however, no action was taken on the complaint.

3.3. Before the adjudication of the civil suit, the parties entered into a settlement and a joint application was preferred where the parties agreed to not institute any further proceedings in regard to the subject



matter of the civil suit. By order dated 31.01.2019, the civil suit was dismissed as withdrawn in terms of the settlement.

3.4. Before the parties had settled the dispute, the complainant had preferred an application under Section 156(3) of the Code of Criminal Procedure, 1973 ('CrPC') against the petitioners. Despite the settlement between the parties, by way of impugned order, the learned ACMM directed registration of FIR by noting that whether the documents are forged or not is a matter of investigation.

3.5. Pursuant to the same, FIR No. 176/2019 was registered at Police Station Saket, on 24.04.2019, for offences under Sections 420/468/471/34 of the IPC alleging that after the petitioners had been inducted as trustees of PHTT, a loan was taken by PHTT for an amount of ₹3.5 crores from RBL Bank, with an irrevocable personal guarantee of the petitioner Arun. Subsequently, on the representation of petitioner Arun, the complainant paid an amount of ₹79 lakhs to discharge the loan. Thereafter, the petitioners started obstructing the functioning of PHTT. It was alleged that the petitioners had filed certain forged documents in the civil suit initiated by the complainant. It was alleged that the said documents had been forged in collusion with each other and the accused conspired to induce the complainant into discharging the RBL Loan availed by PHTT.

4. The learned counsel for the petitioners submitted that the Civil Suit was decreed on the same set of allegations as levelled in the FIR. He submitted that the allegations in relation to cheating are identical to



the issues raised in the Civil Suit that the petitioners duped Respondent No.2 into paying off the loan from RBL Bank.

5. He submitted that the resolution of the Civil Suit effectively nullifies the basis for the criminal allegations as the primary contention, that the complainant was wrongfully induced into repaying the loan, has been addressed and resolved through mutual agreement.

6. He submitted that the Civil Suit as well as the application under Section 156(3) of the CrPC were filed by the complainant as a counter blast to the proceedings initiated by Public Health Foundation of India ('PHFI') against the complainant for his illegal acts. He submitted that PHFI had launched the 'Swasthya Slate' project and established PHTT to manage it.

7. He submitted that insofar as the allegations of forgery are concerned, the petitioner Arun had ceased to be a trustee by the time the documents were issued and the petitioner Mario has not disputed to having authored the same. He submitted that in such circumstances, no case of forgery can be made out. He submitted that the complainant had challenged the validity of the documents in the civil suit and no such allegation of forgery had been made at that time.

8. He submitted that the complainant has not actively opposed the present petition and he did not even pursue the application under Section 156 (3) of the CrPC. He submitted that as per the Settlement Agreement, the complainant voluntarily consented to settle all disputes, including those raised in the FIR, and no useful purpose will be served by the continuation of the FIR.



9. He further submitted that the FIR, being, FIR No. 202/2018, registered with Economic Offences Wing, at the instance of PHFI also stands quashed by this Court by order dated 03.09.2019, in W.P.(CRL) 1660/2019.

10. While an advocate initially entered appearance on behalf of the complainant, no one has been appearing on his behalf since 26.02.2020. No reply was filed to the present petition either. This Court had made clear on 21.02.2024 that if none appears for the complainant, the matter would be proceeded *ex parte*.

11. On being pointedly asked, the learned Additional Public Prosecutor for the State submitted that the complainant has also not joined the investigation due to which the matter has not proceeded.

12. He submits, on instructions, that the documents were found to be genuine.

ANALYSIS

13. At the outset, it is relevant to consider the scope of interference in exercise of inherent jurisdiction. While this Court needs to exercise restraint in stifling prosecution, however, the inherent jurisdiction can be exercised if it is found that the continuance of criminal proceedings would be a clear abuse of process of law.

14. The Hon'ble Apex Court in the case of ***Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736*** has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings. The relevant portion of the same is reproduced



hereunder:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few



ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.”

(emphasis supplied)

15. In the present case, it is argued that the main issue of the complainant being induced into paying the loan of PHTT to discharge the personal guarantee of the petitioner Arun has already been resolved. It is argued that the civil suit where the alleged forged documents were adduced by the petitioners was also dismissed as withdrawn.

16. The relevant portion of the settlement brought on record before the learned Civil Judge is as under:

“In view of the aforementioned terms, the Plaintiffs agree to withdraw the present suit against the parties to the present settlement and to further withdraw any other legal proceedings, whether civil or criminal, which may have been instituted by them against parties to the present settlement in respect of any of the disputes as mentioned in the present suit or arising therefrom. The parties to the present settlement further agree not to institute any further proceedings, whether civil or criminal, against each other in the fixture with regard to the subject matter of the present suit and the matters covered under this Application. The Plaintiffs shall confirm in writing to the parties to the present settlement that they have withdrawn all legal proceedings, whether



civil or criminal, and the Plaintiffs shall also provide the details of the legal proceedings withdrawn by them along with supporting documents.”

17. It is pointed out that the FIR registered at the instance of the petitioners was also quashed on the basis of the settlement between the parties.

18. Evidently, the application under Section 156(3) of the CrPC was preferred by the complainant alleging that he had been duped into clearing the RBL Loan. The said issue was also raised before the learned Civil Court and was consequently resolved by way of settlement between the parties.

19. Insofar as the allegations in relation to forgery are concerned, it seems that the issue was in relation to the complainant being ousted as a trustee and other individuals being appointed as authorised signatories. It is not alleged that the complainant's signatures were forged on any of the concerned documents. It is also pertinent to note that the concerned documents were found to be genuine.

20. The complainant has not opposed the present petition and it is pointed out that he is also not joining investigation. The fact of settlement has been noticed in the impugned order itself. It is stated that the complainant has gone out of India.

21. The FIR was registered way back in the year 2019 and the matter has not proceeded since then. In the opinion of this Court, by virtue of the settlement between the parties, subjecting the petitioners to a protracted proceedings, where the complainant himself does not



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wish to pursue the matter, would be an abuse of the process of law. Continuation of proceedings would serve no purpose.

22. In view of the aforesaid discussion, FIR No. 176/2019 and all consequential proceedings arising therefrom are quashed.

23. The present petition is allowed in the aforesaid terms. Pending applications also stand disposed of.

24. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

DECEMBER 24, 2024