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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: 24.05.2024**Pronounced on: 01.07.2024*

+ **W.P.(CRL) 3648/2023 & CRL.M.A. 33910/2023, CRL.M.A.
9850-51/2024**

ATS INFRASTRUCTURE LIMITED & ORS. Petitioners

Through: Mr. Arunabh Chowdhary
Senior Advocate with Mr.
A.K. Chaudhary, Mr. Ritik
Malik, Ms. Geetanjali Setia,
Mr. Akhil Suri, Ms. Manisha
Suri and Mr. Vikrant Narula,
Advocates

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Amol Sinha, ASC for the
State with Mr. Kshitiz Garg,
Mr. Ashvini Kumar and Ms.
Chavi Lazarus, Advocates
Inspector Nikesh Kumar, P.S.
E.O.W.
Mr. Rahul Mehra, Sr.
Advocate with Mr. Piyush
Singh, Mr. Akshay Srivastava,
Mr. Alankrit Bhatnagar, Mr.
Suryansh Vashisth and Mr.
Chaitanya, Advocates for R-2
to R-6.



+ **W.P.(CRL) 3728/2023 & CRL.M.A. 34737/2023**

ATS REAL ESTATE BUILDERS PRIVATE
LIMITED

... Petitioner

Through: Mr. Arunabh Chowdhary
Senior Advocate with Mr.
A.K. Chaudhary, Mr. Ritik
Malik, Ms. Geetanjali Setia,
Mr. Akhil Suri, Ms. Manisha
Suri and Mr. Vikrant Narula,
Advocates

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Amol Sinha, ASC for the
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Mr. Rahul Mehra, Sr.
Advocate with Mr. Piyush
Singh, Mr. Akshay Srivastava,
Mr. Alankrit Bhatnagar, Mr.
Suryansh Vashisth and Mr.
Chaitanya, Advocates for R-2
to R-6

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. This judgment shall govern the disposal of W.P.(CRL) 3648/2023 and W.P.(CRL) 3728/2023 as the issue in question in both the petitions is common and these petitions arise out of same facts



and circumstances, the petitioners in these two petitions are co-accused in the same FIR, and the reliefs sought in both the petitions are also identical.

2. The petitioners, by way of these petitions filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*'Cr.P.C.'*), seek quashing of FIR No. 81/2023, registered at Police Station Economic Offences Wing, Delhi for offences under Sections 406/409/420/120B of the Indian Penal Code, 1860 (*'IPC'*) and the proceedings arising there from.

3. **Factual backdrop** of the case is that a complaint was lodged by the complainants i.e. respondent no. 2 to 6, against the following accused persons: (i) M/s ATS Infrastructure Limited (accused no. 1), (ii) M/s ATS Real Estate Builders Private Limited (accused no. 2), (iii) Sh. Getamber Anand (accused no. 3), (iv) Sh. Puneet Arora (accused no. 4), (v) Sh. Udaivir Anand (accused no. 5), (vi) Sh. Sanjay Sethi (accused no. 6), and (vii) Ms. Bani G. Anand (accused no. 7). It is alleged that the accused no. 1 and 2 are both real-estate companies, and accused no. 3 who is the Director in accused no. 1 and 2, alongwith accused no. 5 and 7 was looking for people to invest money in one of its project namely 'ATS Marigold' located in Sector 89A, Gurugram, Haryana, being constructed and developed by accused no. 2 company. It is alleged that in the year 2018, accused no. 3, accused no. 5, and accused no. 7, in collusion with other Directors of M/s ATS Real Estate Builders Private Limited, had induced the complainants to invest in a project by presenting an



overly optimistic picture of the project's prospects and by offering a Buy Back Scheme. The scheme promised to repurchase the apartments after a certain period of time at a stipulated price. It is alleged that the complainants were fraudulently induced to invest their money in M/s ATS Infrastructure Limited and M/s ATS Real Estate Builders Private Limited. As alleged, the accused persons had showed the complainants a specimen Memorandum of Understanding and Agreement to Sell and Purchase, which included explicit liability for the encashment of post-dated cheques. Based on these representations, the complainants had invested substantial amounts in the project, resulting in the allotment of units to them. It is further alleged that accused no. 3, acting as an Authorized Signatory for both M/s ATS Infrastructure Limited and M/s ATS Real Estate Builders Private Limited, had issued the allotment letters and executed the Memorandum of Understandings and Agreement to Sell and Purchase for the Buy Back Scheme. It is alleged that accused no. 3 i.e. Mr. Getamber Anand, and his co-conspirators, accused no. 5 i.e. Mr. Udaivir Anand, and accused no. 7 i.e. Ms Bani G. Anand, collected monies on behalf of M/s ATS Real Estate Builders Private Limited and issued post-dated cheques on behalf of M/s ATS Infrastructure Limited. As alleged, the Agreements clearly stated that post-dated cheques signed by accused no. 3 would be honored upon presentation. The complainants further alleged that despite multiple extensions sought unilaterally by the accused for the 'Holding Period', the complainants complied with the extensions and handed over previously issued cheques in exchange for new post-dated



cheques. However, before these cheques were to be encashed, the accused persons had requested the complainants not to deposit them, citing financial instability due to Covid-19, and had promised to issue fresh cheques, which never happened. When the complainants had eventually deposited the post-dated cheques, they had got dishonored due to account blocks, frozen accounts, or insufficient funds. It is alleged that the accused persons had then refused to honor the Agreement, thereby causing the complainants a significant financial loss. The complainants allege that accused no. 3 had dishonestly induced them to invest, fully aware that the cheques would not be honored. The accused persons had no intention of fulfilling their contractual obligations and had planned from the beginning to cheat and defraud the complainants. The complainants also assert that they were *bona fide* investors, who had been misled by the false assurances of accused no. 3, accused no. 5, and accused no. 7. They allege that the accused persons had created an environment of trust to lure them into investing in the buy-back scheme, only to later defraud them by not honoring the issued cheques. On the basis of these allegations, the present FIR was registered against the petitioners herein.

4. **Learned Senior Counsel appearing on behalf of the petitioners**, while praying for quashing of FIR, argues that M/s ATS Real Estate Builders Private Limited had developed a project namely 'ATS Marigold' in Gurugram, Haryana and in 2016, the respondent no. 2 to 6 had individually invested in the project, securing seven units in their names and executing Allotment Letters after due



diligence. It is argued that on the same day, they had approached petitioner M/s ATS Infrastructure Limited to purchase these units, resulting in Tripartite Agreements to Sell & Purchase between M/s ATS Real Estate Builders Private Limited, the respondents and M/s ATS Infrastructure Limited and these agreements involved petitioner no. 1 i.e. M/s ATS Infrastructure Limited paying for the units, with Post dated cheques issued as security for the transaction. It is submitted that the respondents had made such investments with the expectation of price escalation in the real estate sector. However, due to certain unforeseen situations, the project was delayed. It is argued that the company had sent letters for extending the holding period, which were accepted by the respondents without any objection, and fresh post dated cheques were issued accordingly. It is contended that despite being aware of the circumstances, the respondents initiated frivolous litigation with ulterior motives to harass and extort money from the petitioners. It is submitted that the respondents had presented the cheques for encashment, which were dishonoured due to the account being blocked, and the petitioners had communicated the issue to the respondents, who, instead of amending the agreements which were also faulty and void ab initio, initiated proceedings under Section 138 of Negotiable Instruments Act, 1881. Furthermore, the respondents also initiated proceedings under the Insolvency and Bankruptcy Code, 2016, before the National Company Law Tribunal (NCLT), Delhi, which dismissed their claim, holding that the respondents were not financial creditors. It is stated that the respondents had appealed against the decision, and the matter



is pending before the Appellate Tribunal.

5. It is argued that the respondents have misused the state police machinery to register the present FIR, despite the Hon'ble Supreme Court and various Courts' directions that a mere breach of contract does not give rise to criminal prosecution. It is also argued that the FIR was registered mechanically, ignoring the essential ingredients of criminality and the civil remedy available to the respondents. It is also stated that the respondents, in absolute contrast with the narration before the Hon'ble NCLT, claiming the dispute to be purely civil contractual dispute on one hand and without disclosing about the pendency of the aforesaid cases, filed a criminal complaint before the EOW, Delhi, which culminated into the present FIR

6. It is argued that there are material suppressions and malicious concealment of vital facts in the present FIR, which have intentionally and deliberately not been disclosed by the respondents in order to give the present civil dispute a criminal colour. It is further submitted that the present FIR was lodged in the year 2023 i.e., after seven years as the offence/inducement is stated to have been committed in 2016. It is also argued that in terms of the Agreement(s) executed between the Parties, the respondents in furtherance of purchasing the units, in the event of default i.e. dishonour of the post dated cheques, opted for the recovery of their assured investments and never opted to get the allotment of their units in the said Project, thus establishing that no criminality, as alleged in the FIR, was involved, and the dispute at hand is purely a civil dispute



7. It is also argued that the offences under Sections 406 and 420 of IPC are contradictory to each other, and cannot form part of the same transaction, and further that neither offence under Section 406 nor under Section 420 of IPC is made out in the facts of the present case, which at best, can reveal a case of breach of contract or failure to fulfil a promise in the contract, insufficient to initiate any criminal proceedings. It is therefore argued that the present case is a fit case for quashing of FIR and thus, present petition be allowed. In support of his arguments, learned Senior Counsel has also placed reliance on several case laws.

8. On the other hand, **learned Senior Counsel appearing on behalf of respondent no. 2 to 6** argues that the FIR was registered after a thorough preliminary inquiry, clearly establishing *prima facie* offences against the accused persons, including petitioner no. 1, which warrants a thorough investigation to ensure justice for the Respondents. It is argued that all the provisions/offences of IPC invoked by the police are clearly made out from a bare reading of the FIR. It is submitted that the status report dated 23.01.2024 filed in W.P. (CRL) No. 3648/2023 highlights the following key points: (i) The MOUs between the respondents and petitioners obligated the petitioners to pay Rs. 5,57,77,000/- to the respondents. It is argued that this assurance was a premeditated strategy to induce investment from the respondents, ultimately benefiting the Petitioners financially. (ii) The petitioners have created third-party rights over the units allotted to the respondents, leaving the respondents without their money or the units, thereby achieving significant financial gains



at the respondents' expense.

9. It is stated that the petitioners were involved in day-to-day affairs of petitioner/company and were either holding position of a Director or were designated as key managerial person in the petitioners company. Petitioner no. 5, Ms. Bani G. Anand, was holding position of Vice Chairperson in petitioner/company since August, 2015. It is stated that Mr. Puneet Arora is holding the position of Director of the petitioner company since 30.09.2016. It is further stated that Mr. Udaivir Anand is holding the position of Managing Director in the Petitioner Company starting from October, 2018 till date, and prior to being appointed as Managing Director, he had been working with accused company in different capacities, which aspect also needs to be further investigated by the police in the instant case. It is argued that the petitioners herein had obtained a stay on investigation in the present case by misleading to this Court in believing that the petitioners were neither the Directors, nor involved in day-to-day affairs of the petitioner company by relying upon the latest master data of company annexed as Annexure P-3 to their petition.

10. As far as reliance on behalf of petitioners, on the decision passed by Co-ordinate Bench in case of *Shiv Kumar v. State of NCT of Delhi* CRL.M.C. 1537/2023 is concerned, it argued on behalf of respondents that in case of *Shiv Kumar (supra)*, CIRP had been initiated and claims of financial creditors had been accepted. However, in the present case, CIRP was not admitted, and the NCLT had dismissed the respondents' petition, holding that they were not



financial creditors. It is also pointed out that the respondents had filed the criminal complaint soon after the dishonoring of post dated cheques, unlike the significant delay in case of *Shiv Kumar (supra)*. Further, it is pointed out that in the said case, charge sheet had been filed whereas in the present case, the investigation is still at the initial stage and has been stalled by a stay order obtained by misleading this Court.

11. It is also argued that the petitioners herein have withheld returns of Rs. 5,57,77,000/- and misappropriated the invested funds without offering possession of the units or returning any money to the respondents. It is thus submitted that the intention of the petitioners was dishonest from the inception, as evident from the contents of FIR. It is argued that the Hon'ble Apex Court in several decisions has held that investigation in *prima facie* cognizable offences should not be thwarted at the initial stage, and quashing powers should be exercised sparingly in rare cases. Therefore, it is prayed that a fair investigation against the petitioners should be conducted to trace actions of cheating and misappropriation, bringing justice to the respondents, including elderly individuals, and thus, the present petition be dismissed.

12. **Learned ASC appearing on behalf of the State i.e. respondent no. 1** also argues that during the course of enquiry/investigation, accused persons were asked to provide the present status of the units which were allotted to the complainants, however, no satisfactory reply has been given in this regard and it has been stated that "the answer to this query will be given later as the



documents of the company were localized for auditing". It is argued on behalf of the State, that from the allegations made by the complainants and reply of accused persons, it is quite evident that the units allotted to the present complainants under buy back scheme have been sold to third parties without prior permission of the complainants. Further, the complainants have neither been given possession of the allotted units nor they have got back their invested amount. The post dated cheques issued by the accused company to the complainants have already been dishonored. It is also submitted that there are several other criminal cases registered against the present accused persons/petitioners. Learned ASC further submits that the accused persons did not join the enquiry despite issuance of notice and they are yet to be examined in respect of the allegations leveled by the complainants. Therefore, it is prayed that the present petition be dismissed in the interest of justice and for securing the interest of the complainants/victims.

13. This Court has **heard** arguments addressed by learned Senior counsel appearing on behalf of the petitioners as well as learned ASC appearing on behalf of the State and learned Senior Counsel appearing on behalf of the complainants/respondents. The material placed on record by the either side has also been perused and considered.

14. The petitioners herein have approached this Court, by invoking Article 226 of the Constitution of India and Section 482 of Cr.P.C., for the purpose of seeking quashing of the FIR registered against them, on the basis of complaint filed by the respondents. The law



with respect to exercise of power under Section 482 of Cr.P.C. or Article 226 of Constitution, insofar as quashing of an FIR is concerned, is well-settled. The Hon'ble Apex Court, through catena of judgments, has also laid down several guidelines and summed up principles to be followed by the Courts while deciding a petition seeking quashing of FIRs and criminal proceedings. Before advertng to the merits of the present case, it shall be thus appropriate to first take note of few such important decisions.

15. In case of *State of Haryana v. Bhajan Lal* 1992 SCC (Cri) 426, the Hon'ble Apex Court had observed that except in exceptional circumstances, where non-interference would result in miscarriage of justice, the Courts ought not to interfere at the stage of the investigation of an offence. Further, the principles which were laid down by the Hon'ble Apex Court, to be followed while adjudicating a petition seeking quashing of criminal proceedings, are as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or 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 a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

16. The Hon’ble Apex Court in case of *Union of India v. Prakash P. Hinduja* (2003) 6 SCC 195 has held that the Courts should not interfere with the investigation or during the course of investigation



i.e. till the filing of a report under Section 173 of Cr.P.C., by exercise inherent jurisdiction. The relevant observations in this regard are extracted hereunder:

“20. Thus the legal position is absolutely clear and also settled by judicial authorities that the court would not interfere with the investigation or during the course of investigation which would mean from the time of the lodging of the first information report till the submission of the report by the officer in charge of the police station in court under Section 173(2) CrPC, this field being exclusively reserved for the investigating agency.”

17. In the decision reported as *Skoda Auto Volkswagen India Private Limited v. State of Uttar Pradesh* 2020 SCC OnLine SC 958, it was held as under by the Hon’ble Apex Court:

“40. It is needless to point out that ever since the decision of the Privy Council in *King Emperor v. Khwaja Nazir Ahmad*, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the court will not permit an investigation to go on.

41. As cautioned by this Court in *State of Haryana v. Bhajan Lal*, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint.

42. In *S.M. Datta v. State of Gujarat* this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In *S.M. Datta*, this Court held that if a perusal of the first information report leads to disclosure



of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.”

18. The principles governing quashing of FIRs and criminal proceedings were summed up by the Hon’ble Apex Court in case of *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra (2021) 19 SCC 401* after analysing catena of judicial precedents. The relevant observations of the decision are extracted hereunder:

“13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad, the following principles of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;

13.2. Courts would not thwart any investigation into the cognizable offences;

13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;

13.4. The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

13.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

13.6. Criminal proceedings ought not to be scuttled at the



initial stage;

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

13.9. The functions of the judiciary and the police are complementary, not overlapping;

13.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

13.13. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

13.14. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P.



Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

13.15. When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

19. In all the aforesaid decisions, the Hon’ble Supreme Court has clearly laid down that the recourse to quashing of an FIR has to be taken in rarest of rare cases, and this power should be used sparingly moreso when the investigation of a case is at its initial stage.

20. In the present case, the learned Senior counsel for the petitioners has taken this Court through various documents, contracts and MOU entered between the parties and has argued that from the bare perusal of the same, it is clear that no case is made out either under Section 406 or Section 420 of IPC. This Court, having gone through the judgments of the Hon’ble Apex Court and the principles laid therein, is of the opinion that the investigation in the present case is at its initial stage. The police after conducting preliminary enquiry had registered the FIR since *prima facie*, it appeared that cognizable offences were committed by the petitioners herein.

21. This Court has also gone through the contents of the FIR, agreement(s) entered between the parties, and the status report filed on record by the State. The records of the case reveal that the petitioners herein were holding crucial positions in the company in



question at the relevant point of time, when they had *prima facie* induced the complainants to invest in the project in question with buyback option. The status report also reveals that as per initial investigation conducted in this case, it appears that the units which were to be given to the respondents herein as per the MOU and the options thereunder, have already been alienated and have been given to third parties.

22. The investigation is at a nascent stage and without investigation, it cannot be ascertained as to whether or not there was intention on part of the accused persons i.e. the petitioners to dupe the complainants of their hard-earned money on the pretext of providing higher returns through the buyback scheme. At this stage, the complainants have categorically alleged that the accused persons had induced the complainants to invest in the 'ATS Marigold' project by presenting a buy-back scheme with false promises. They had issued post-dated cheques as part of the said scheme but later had requested the complainants not to deposit them, citing financial instability, and when the cheques were eventually deposited, they were dishonored due to account blocks or insufficient funds. The accused persons had then allegedly refused to honor the agreement, causing significant financial loss to the complainants, who allege that the accused persons had no intention of fulfilling their obligations and had planned to defraud them from the beginning.

23. As far as the argument regarding transaction relating to the year 2016 and delay in registration of FIR is concerned, this Court is of the view that the same is without any merit since though the



agreement was entered into between the parties in 2016, the complainants were to get their returns after a period of 36 months, for which post-dated cheques had been issued by the accused persons, and further that this time period had been extended at the request of accused persons themselves, and thus, the complainants had filed the present complaint only after the cheques handed over to them by the accused persons had got dishonored and the accused persons had allegedly refused to return their money.

24. As revealed from Status Report filed on record, there are other FIRs also registered against the petitioners, wherein similar allegations of duping the complainants under the pretext of buy back scheme have been levelled.

25. In this Court's opinion, the FIR has been registered against the petitioners for offences such as criminal breach of trust, cheating, etc., however, only the investigation can lead to the truth of the matter. In these circumstances, guided by principles laid down by the Hon'ble Apex Court in cases of *Neeharika Infrastructure (P) Ltd. (supra)* and *Bhajan Lal (supra)*, this Court is of opinion the FIR in question cannot be quashed at this stage and the investigation by the police will only bring out the clarity, including the issue as to whether any case is made out under the relevant sections of law or not. Needless to say, if no such commission of offence will be made out, the police will be at liberty to file an appropriate report under Section 173 of Cr.P.C.

26. Thus, in view of foregoing discussion, the present petitions alongwith pending applications are accordingly dismissed.



27. It is however clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

28. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JULY 01, 2024/P