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

+ CRL. M. C. 8436/2024, CRL.M.A. 32192/2024

NAGENDRA SINGH & ORS

.....Petitioners

Through: Mr. Dhruv Dwivedi and Mr. Bonny Mehra, Advocates for petitioners.
Mr. I. A. Alvi, Advocate for petitioner no.5.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Manoj Pant, APP for State along with SI Amit Kumar P.S. Dwarka South.
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

24.10.2024

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The present matter has been received on transfer.

1. The present petition has been filed for quashing of FIR No. 251/2023 under Sections 420/406/120B IPC at P.S. Dwarka South and all the proceedings emanating therefrom, on the basis of settlement.
2. Learned counsel for the petitioner submits that in terms of the undertaking of petitioner no.1 vide affidavit dated 04.04.2024, the petitioner has executed the sale deed of property bearing no.D-103, 4th Floor with roof rights, Sector-8, Dwarka in favour of Harbans Singh, complainant and his wife Arvinder Kaur. An affidavit of undertaking



placed on record reads as under:

“1. That, I am the Petitioner/ Applicant in the aforementioned case and as such I am well conversant with the facts and circumstances of the case and thus competent to swear this present affidavit.

2. That the present bail application was listed for hearing before this Hon’ble Court on 12.03.2024, whereby after hearing the parties, this Hon’ble Court directed Applicant to file an undertaking to the effect that “that he will execute all necessary title documents in respect of property bearing No.D-103, 4th Floor with roof rights, Sector-8, Dwarka, New Delhi-110075, on or before 10.07.2024, in favour of the Complainant and hand over the peaceful and vacant possession thereof, free from all encumbrances. This would, however, be subject to the Complainant fulfilling his part of the obligations with regard to execution of title deeds and payment of the balance sale consideration”

3. That, Counsel for Petitioner submitted that, undertaking to such effect can be given when Complainant consents for quashing the subject FIR and withdraws his cases instituted against the Petitioner.

4. Thus, in compliance of the order dated 12.03.2024 the Applicant hereby undertakes to transfer the 4th floor of property bearing D-103, Sector 8, Dwarka in favour of Complainant Sh. Harbans Singh subject to following four conditions:

i) The Civil Suit bearing no. CS(OS) 197/2021 for specific performance instituted by Applicant (Plaintiff therein) pending before this Hon'ble Court is withdrawn as settled with Accused no. 1 (Vanita Singh) & Vikaramjeet Singh.

ii) The Complainant Sh. Harbans Singh will withdraw the following two cases instituted by him against the Applicant

a. Civil Suit bearing no. CS No.506/2021 titled as Harbans Singh vs Vanita Singh & Ors pending before the Court of Id. ADJ, Dwarka Courts (South-West)

b. Complaint under Section 138 NI Act, bearing no. CC NI ACT 18598/2021 titled as HARBANSH SINGH Vs. NAGENDRA SINGH pending before the Court of Id. MM, Dwarka Courts



(South-West)

iii) The Complainant Sh. Harbans Singh will give his consent and cooperate in getting the subject FIR No. 251/2023 U/S: 420/406/120B IPC PS: DWARKA SOUTH quashed against all the accused persons in the FIR in accordance with law.

iv) That, after fulfilling the above conditions the Complainant Sh. Harbans Singh will pay the balance payment to the Applicant before proceeding for the registration of the sale deed of the 4th floor of property bearing D-103, Sector 8, Dwarka.

5. That, an interim injunction order is in operation against the Accused no. 1 & Mr. Vikarmjeet Singh with respect to 1st, 2nd & 4th floor of property bearing D-103, Sector 8, Dwarka. That, Applicant has signed MOS dated 27.11.2023 & MOS 13.03.2024 with Accused no. 1/Ms. Vanita Singh & Mr. Vikarmjeet Singh and on that basis of MOS, Plaintiff therein has sought withdrawal of the suit bearing no. CS(OS) 197/2021.

6. That, now in order to legally affect the present undertaking, the Civil Suit bearing no. CS(OS) 197/2021 is required to be withdrawn as settled between M/s Zenext Heights (Plaintiff) (Petitioner be partner of M/s Zenext Heights) of and Ms. Vanita Singh (Defendant no.1) and Mr. Vikarmjeet Singh (defendant no. 2). That, until the suit is disposed-off as withdrawn the applicant is legally impaired to deal with the 4th floor of property bearing D-103, Sector-8, Dwarka

7. That, Applicant first moved I.A. no. 6529/2024 in CS(OS) 197/2021 under Order XXIII Rule 3 CPC for withdrawal of suit in terms of settlement however, Defendant no. 3 & 7 in the suit objected to the said application and have sought time to file reply, Thus, the Hon'ble Court granted Defendant no. 3 & 7 time to file the reply and has listed the suit for hearing on 11.07.2024.

8. However, seeing the urgency in the matter and also in view of the undertaking to be give before this Court, the Applicant filed another application I.A no. 6861/2024 under order XXIII Rule 1 read with Section 151 CPC for unconditional withdrawal of the suit, however, even to the said application as well Defendant no. 3 & 7 has raised objection and has sought time to file reply which is returnable on 25.04.2024. A copy of both the I.A. no.



6529/2024 & I.A no. 6861/2024 along with order dated 20.03.2024 & 22.03.2024 are annexed herewith as ANNEXURE A(colly).

9. It is submitted, till the Civil Suit bearing no. CS(OS) 197/2021 is not disposed-off in terms of the MOS dated 27.11.2023 & MOS 13.03.2024 reached with Accused no. 1 in reasonable time, then the Applicant is legally impaired to affect the present undertaking and the terms of the MOS, which gives right to Applicant to deal with the 4th floor of property bearing D-103, Sector 8, Dwarka.

10. Petitioner hereby subject to the above four conditions stated in para 4 being Fulfilled, undertakes to transfer the 4th floor of property bearing D-103, Sector 8. Dwarka in favour of the Complainant.”

3. Learned Counsel for the petitioners submit that in a nutshell the allegations in the FIR made by Respondent no. 2 are that the complainant is an allottees of M/s Zenext Heights who booked the property in question from the petitioner builder. The Complainant sought registration of flat in his name as per the mutual party agreement dated 24.12.2018 executed between the Complainant and M/s Zenext Heights through its partner Mr. Nagendra Singh. However, since the Accused no.1 Vanita Singh, who was the owner of the Plot contended that total sale consideration had not been paid, she refused to perform its part under the agreement to sell dated 01.12.2017 thereby making M/s Zenext Heights legally unable to get the property registered in the name of the Complainant.
4. Thereafter M/s Zenext Heights through its partner Mr. Nagender Singh (Petitioner no.1 herein) filed a suit for specific performance bearing no. CS(OS) 197/2021 before this Hon'ble Court seeking performance of the agreement to sell dated 01.12.2017 in favour of



the four allottees out of which one is the complainant/Harbans Singh.

5. It has been submitted that during the pendency of the proceedings, the matter has been resolved amicably. Learned Counsel for the petitioner submits that the present FIR arises out of a civil dispute, which now stands settled by compliance with the undertaking dated 04.04.2024 by Petitioner no. 1.
6. The complainant, who is present in court and duly identified by the IO also submits that the registry of the disputed property has been executed in his favour.
7. The High Court is the highest court of the State and is conferred with the power of control and superintendence over all courts subordinate to it. Besides Articles 226 and 227, Section 482 CrPC also acknowledges the inherent power of the high court to secure the ends of justice. In cases where the offences are not compoundable in nature, the parties on account of an amicable settlement invoke the inherent power under Section 482 Cr.P.C. for quashing the proceedings on the plea that continuance thereof would merely be an abuse of process of law.
8. It has repeatedly been held by the courts that if the dispute is private in nature and parties have amicably resolved them at their own free will, the quashing of the proceedings may be done. In the present case, the dispute primarily revolves around a contractual dispute regarding the sale of property. The matter is civil in nature, the Petitioner's actions were in furtherance of a civil contractual obligation.
9. In view of the above, this court is of the opinion that no purpose



would be served with continuing with the proceedings. The matter pertains to a private transaction and has been mutually settled between the parties, no public interest would be served by continuing with the criminal proceedings. Therefore, FIR No. 251/2023 dated 11.06.2023 under Sections 420/406/120B IPC at P.S. Dwarka South and all the other proceedings therefrom stands quashed.

10. The present petition along with pending applications stands disposed of.

DINESH KUMAR SHARMA, J

OCTOBER 24, 2024/ssc/smg