* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Pronounced on: 4th February, 2025*

\+ **CRL.M.C.2411/2020, CRL.M.A. 17002/2020**

1. **MR. RAJNISH BAHL**
S/o Shri Manmohan Bahl
C-705, New Friends Colony,
New Delhi-110065

2. **MR. MANMOHAN BAHL**
S/o Late Shri K.L, Bahl
C-705, New Friends Colony
New Delhi-110065.

..... Petitioners

Through: Mr. Sanjay Kumar Maria and Mr. Anant Vijay Maria, Advocates.

versus

1. **STATE OF NCT OF DELHI**
Through Standing Counsel

2. **MR. VIKRAM BAHL**
S/o Late Shri Gulshan Bahl
M-14, First Floor,
Jangpura Extension
New Delhi-110014.

..... Respondents

Through: Mr. Hemant Mehla, Ld. APP for State.
Mr. Mohit Chaudhary, Mr. Kunal Sachdeva, Ms. Vaishali Shukla and Mr. Aashish Arya, Advocates for R-2.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. A Petition under *Section 482* of the *Criminal Procedure Code, 1973* has been filed for quashing of Criminal Complaint No.614242 of 2016 pending in the Court of learned Metropolitan Magistrate, Saket Court, New Delhi.

2. It is submitted in the Petition that on 13.01.1984, the legal heirs of Late Sh. K.L. Bahl arrived at a Family Settlement, whereby the house owned by Sh. K.L. Bahl bearing No. A-2, Jangpura Extension, New Delhi was given exclusively to Sh. Gulshan Bahl, one of the sons of Late Sh. K.L. Bahl in exchange of 950 shares of the family Company standing in the name of Sh. Gulshan Bahl, which were given to elder brother Sh. Manmohan Bahl/ Petitioner No.2. In January 1984 Sh. Gulshan Bahl acted upon the Family Settlement and was handed over the Jangpura property while he handed over the possession of 950 share to the Petitioner No.2.

3. On 04.02.1985 Sh. Gulshan Bahl passed away. In the year 2003 family members of Late Sh. Gulshan Bahl sold the house property and took the entire sale consideration without giving 1/4th share to their mother who was alive at that time. After his demise from February 1985 till September 2010 legal heirs of Sh. Gulshan Bahl, never raised any dispute with the Petitioners.

4. In October 2010 the family members of Late Sh. Gulshan Bahl filed a

Company Petition No.104(ND) of 2010 before Company Law Board. However, the same was dismissed as withdrawn on 10.05.2011.

5. In April 2011 the Petition No. PC 196/2011 was filed by the family members in the District Courts, New Delhi seeking Letter of Administration in respect of 950 shares, which is still pending adjudication.

6. In the year 2016, Respondent No.2 Sh. Vikram Bahl son of Late Sh. Gulshan Bahl filed the present Criminal Complaint. The family members of Late Sh. Gulshan Bahl also filed number of cases on the same subject in various Courts. The present Petition, therefore, has been filed for quashing of the Criminal Complaint.

7. It is submitted that though the *Application under Section 156(3) filed on behalf of Respondent No.2 was dismissed vide Order dated 17.10.2014,* the Complaint Case under Section 200 Cr.P.C was proceeded. An Application under Section 91 Cr.P.C was filed in the year 2016 by the Complainant seeking directions for production of number of documents relating to the Family Company which not even part of the Complaint Case. Subsequently, when objections were raised by the Petitioners in their Reply, the Complainant/Respondent No.2 gave a statement in the Court that he was confining his Application only in regard to the documents relating to transmission of 950 share of the Family Company which were handed over by Sh. Gulshan Bahl during his lifetime to Petitioner No.2 as part of the Family Settlement dated 13.01.1984. The Application has been allowed vide Order dated 19.08.2020 and the Petitioners have already placed all the documents along with their Application for discharge.

8. It is submitted that the Application for discharge from the Criminal

Complaint is pending since 2017, but even the Reply has not been filed by the Complainant. Moreover, it is claimed that disputes raised are basically of civil nature for which several Civil Suits have been initiated by Respondent No.2 before the Company Law Board as well as the Civil Courts. He is a habitual litigant and is involved in Forum shopping and hence, a prayer is made for quashing of the summons issued in the Complaint Case No. 614242 of 2016 titled '*Vikram Bahl vs. Manmohan Bahl and Another*'.

9. The *Status Report has been submitted on behalf of the State*, wherein it is submitted that pursuant to the directions given in the Application under Section 156(3) Cr.P.C, *Action Taken Report* was submitted, wherein it was noted that the matter pertains to dispute between the family members over distribution of shares of the Company owned by the family. The Complainant had already approached the Company Law Board and Civil suit is also stated to be *subjudice* before the Court of learned ADJ. It was concluded that as per the record, no criminal case was found registered against Petitioners and Respondents.

10. The **written submissions have been filed on behalf of the Petitioner reiterating the facts as stated herein above**. Reliance has been placed on *Mitesh Kumar J Sha vs. State of Karnataka & Ors*. 2021 SCC OnLine SC 976, wherein it was observed that "*there is a growing tendency in business circles to convert purely civil disputes in criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. There is also an impression that if a person could*

somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."

11. It is, therefore, submitted that essentially the disputes which have been raised in the Criminal Complaints are in civil nature for which multiple civil litigations have already been initiate and the present Complaint is nothing but an abuse of process of the Court and is liable to be quashed.

12. The ***Respondent No.2 in his Written Submissions*** has explained that Late Shri K.L. Bahl grandfather of Respondent No.2 incorporated a HUF Company by the name of Pramod Kumar and Brothers Pvt. Ltd. and all the family members were inducted as shareholders of the Company. Late Shri Gulshan Bahl father of Respondent No.2 was allotted 950 equity shares of the Company. He, being one of the shareholders, was made Director and was actively involved in managing the day-to-day affairs of the Company till his death on 04.02.1985. Thereafter, Petitioner No.2 Shri Manmohan Bahl uncle of Respondent No.2 started taking care of day-to-day affairs of the Company. Respondent No.2 had complete faith, trust and belief on Petitioner No.2, but after the demise of his father, he did not receive even a penny by way of dividend or profits on the shares held by his father. However, he was all throughout assured that he would be paid for the Shares held by his father. It is claimed that he was kept in dark of the affairs of the Company and has only come to know recently about the illegal transfer of the shares held in his father's name.

13. It is further claimed that the Respondent's father in his lifetime never

made any Will or executed any Settlement Deed whereby he relinquished or transferred his shares held by him in HUF Company. He has been shown as the shareholder of the Company and in Annual Return Reports. It is, therefore, submitted that a criminal conspiracy has been entered into by the Petitioners who have misappropriated the funds of the Company and are in the process of creating unwarranted charge on the Company's property and are also working in the process of illegally acquiring ownership of the Company by marginalising the shares of the Company.

14. Further reliance has been placed on *M/s Indian Oil Corporation vs. M/s NEPC India Ltd. & Ors*. 7 (2006) 6 SCC 736 20, and *A.M. Mohan vs. The State Represented by SHO and Another* arising out of SLP (Crl.) No.9598/2022 decided by the Apex Court on 20.03.2024 wherein it has been observed that criminal proceedings must not be permitted to settle personal scores.

15. **Submissions heard and record perused**.

16. According to the parties Late Shri K.L. Bahl grandfather of Complainant/Respondent No.2 and father of Petitioner No.2 had a family business in the name of *Pramod Kumar Bros. Pvt. Ltd.* It is further asserted by the Petitioner that during his lifetime, a Family Settlement dated 13.01.1984 was entered into between the family members, whereby Shri Gulshan Bahl was given the ownership of Property No. A-2, Jangpura Extension, while he handed over possession of 950 shares of the Company to Shri Manmohan Bahl.

17. This Settlement finds corroboration and confirmation from the Affidavits dated 29.01.2011 duly prepared and signed by the three sons and

daughter of Late Shri K.L, Bahl namely Shri Manmohan Bahl, Shri Jagmohan Bahl, Shri Pramod Bahl and Smt. Vijanti Chadha respectively, wherein it has been specifically recorded that Shri Gulshan Bahl (who has died on 04.02.1985) and all the family members had arrived at an oral Family Settlement on or around 14.01.1984, wherein the matter got settled in the terms already mentioned above.

18. According to the Complainant, this Company has been running till date. The Respondent No.2 claims that after the demise of his father in 1985 he had utmost faith in Petitioner No.2 and belief that the dividends and the profits from the shares of the Company would be given to him which has not been done in all these years. Pertinently, from these averments what emerges is that Respondent No.2 has a grievance of not been given the share in profits and dividends since 1985, which essentially is civil in nature. Even if all the contentions of Respondent No.2 are accepted, Petitioner No.2 became the Director of the Family Company and if the Respondent No.2 feels that he has not got his due share, the remedy lies by way of civil litigation and no criminality can be annexed to such acts.

19. The other grievance of Respondent No.2 is that he has recently come to know that 950 shares of the Company have been transferred by Petitioner No.2 in his name, and he is in the process of acquiring ownership in the Company by marginalising other shareholders. Again, it is significant to note that it is the case of Petitioner No.2 which is duly corroborated by the Affidavits recording the Settlement that these 950 shares were agreed by Shri Gulshan Bahl to be transferred in the name of Manmohan Bahl. It is a Settlement of 1984, and the Complaints and cases have been initiated only in

2010 onwards. The contention of the Respondent No.2 that for all these years he was not aware that he was not getting any share of dividend or profits is palpably not acceptable.

20. Pertinently, he had also filed a Company Petition No. 104 (ND) of 2010 before Company Law Board under Section 397 and 398 of the Companies Act, 1956, wherein the Petitioner gave a detailed Reply and also produced Affidavits recording the oral Settlement of the parties which they had arrived way back on 13.01.1984. No rejoinder was filed on behalf of Respondent No.2. Rather, said Petition was dismissed as withdrawn on 10.05.2011. It is evident that the appropriate remedy for challenging the transfer of the shares in the name of Petitioner No.2 was by way of a Petition before the Company Law Board and having availed the same, the Respondent No.2 cannot now seek refuge under the Criminal law. Even if all the averments of Respondent No.2 are admitted, no prima facie criminal act is disclosed.

21. It may also be observed that Civil Suit No. CS (OS)3275/2014 has also been filed, wherein a Declaration is sought that the transfer of shares shown in Annual Returns for the period 2010-11 be held void *ab initio* and nullity and thus, cancel the transfer of shares in favour of the Petitioners.

22. It has been observed in the case of *Mitesh Kumar J Sha* (supra), *M/s Indian Oil Corporation* (supra) that "*While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end*

of such misconceived criminal proceedings."

23. Similarly in A.M. Mohan (supra) Apex Court observed that "*there is nothing in the words of Section 482 which restricts the jurisdiction of the Court to prevent abuse of process of Court or miscarriage of justice only at the stage of FIR. This power under Section 482 Cr.P.C. can even be exercised while the discharge Application is pending before the Trial Court. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR, but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court*." and A.M. Mohan (supra).

24. It is quite evident that the disputes inter se the parties are civil in nature but, under whatever mistaken impression, the resort has been taken to criminal proceedings in the hope of achieving quicker solutions. This is nothing but a gross abuse of the process of criminal law.

25. The aforesaid discussion thus, reveals that it is a fit case where the Complaint Case bearing No. 614242 of 2016 and the subsequent proceedings therein, deserves to be quashed forthwith, which is accordingly, quashed.

26. The Petition is accordingly allowed and stands disposed of along with the pending Application(s).

(NEENA BANSAL KRISHNA)

JUDGE

FEBRUARY 4, 2024
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