

Punit Beriwalla
v.
The State of NCT of Delhi and Ors.

(Criminal Appeal No. 1834 of 2025)

29 April 2025

[Dipankar Datta and Manmohan,* JJ.]

Issue for Consideration

Whether the High Court was justified in quashing the subject FIR against Respondent Nos.2 and 3 and whether a cognizable offence against them is *prima facie* made out from a reading of the subject complaint.

Headnotes[†]

Code of Criminal Procedure, 1973 – s.482 – Penal Code, 1860 – ss.467 468, 471, 420, 120B – Cross-FIRs filed – Subject FIR registered by the appellant against the accused persons, quashed *qua* the Respondent Nos. 2 and 3 – Interference with:

Held: Impugned judgment set aside – Power of quashing of a complaint/FIR should be exercised sparingly with circumspection – Mere institution of civil proceedings is not a ground for quashing the FIR or to hold that the dispute is merely a civil dispute – Only because the offence was committed during a commercial transaction, it would not be sufficient to hold that the complaint did not warrant a further investigation and if necessary, a trial – As per the allegation in the complaint/FIR, right from the inception of the transaction between the parties, the Appellant was misrepresented, defrauded, deceived with dishonest and fraudulent intent by Respondent Nos.2 and 3 – As per the complaint/FIR, there was misrepresentation by Respondent Nos.2 and 3 right from the inception – All accused persons acted in conspiracy to deceive and cheat the Appellant with no intention of selling the subject property to the Appellant and by misrepresentation and deception they entered into multiple transactions w.r.t the subject property – FIR/complaint reveals commission of cognizable offences by the respondent Nos. 2 and 3 – Furthermore, in view of the contradictory defences of the accused as well as the registration and pendency of the cross FIRs, the High Court should not have limited the scope

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of investigation – Impugned judgment set aside – FIR against respondent nos. 2 and 3 revived. [Paras 28, 29, 31, 35, 39, 43, 46]

Criminal Law – Cross FIRs – Need for holistic investigation:

Held: Cross FIRs are to be holistically investigated – In cases involving cross-FIRs, it would be prudent and fair if the investigation is carried out in a comprehensive manner – The object of the investigation is the discovery of truth – In the present case, in view of cross-FIRs, the investigating authority will conclude that either the receipts in favour of the appellant are forged and fabricated or that the receipts are genuine – Complicity of the respondent nos. 2 and 3 can only be ascertained once the investigation is permitted to reach its logical conclusion. [Para 45]

Agreement to Sell – Agreement to Sell in question if a Contract/ Agreement to Sell – Specific performance thereof, if can be sought:

Held: Yes – Plea that the agreement to Sell in question is not a written but an oral Agreement is contrary to facts and untenable in law – The Delhi High Court whose judgments bind the parties has repeatedly treated receipts, like the receipt dated 12.04.2004, as a Contract/Agreement to Sell whose specific performance can be sought. [Para 27]

Code of Criminal Procedure, 1973 – s.482 – Exercise of power:

Held: Power of quashing of a complaint/FIR should be exercised sparingly with circumspection – While exercising this power, the Court must believe the averments and allegations in the complaint to be true and correct – 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 – Extraordinary and inherent powers of the Court should not be used in a routine manner according to whims or caprice. [Para 29]

Code of Criminal Procedure, 1973 – ss.482, 468, 469 – Penal Code, 1860 – ss.467 468, 471, 420, 120B – Quashing of FIR on ground of delay – When not proper:

Held: Delay in registration of the FIR for offences punishable with imprisonment of more than three years cannot be the basis of interdicting a criminal investigation – Delay will assume importance only when the complainant fails to give a plausible explanation

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and whether the explanation is plausible or not, has to be decided by the Trial Court only after recording the evidence – The fact of misrepresentation and deception at the inception, that is, at the time of execution of the Receipt-cum-Agreement to Sell dated 12.04.2004 came to the knowledge of the Appellant (according to the complaint) only on 28.12.2021 and he filed the complaint on 12.01.2022 – *Prima facie* there is no delay in filing the criminal proceedings – On facts, FIR could not have been quashed on the ground of delay – Moreover, in terms of Section 468 Cr.P.C., there is no period of limitation for offences which are punishable with imprisonment of more than three years. [Paras 37, 38, 40]

Case Law Cited

Syed Aksari Hadi Ali Augustine Imam v. State (Delhi Admin.) [2009] 3 SCR 1017 : (2009) 5 SCC 528; *Lee Kun Hee v. State of UP* [2012] 4 SCR 287 : (2012) 3 SCC 132; *Trisuns Chemicals v. Rajesh Aggarwal* [1999] Supp. 2 SCR 686 : (1999) 8 SCC 686; *Neeharika Infrastructure v. State of Maharashtra* [2021] 4 SCR 1044 : (2021) 19 SCC 401; *Skoda Auto Volkswagen (India) Private Limited v. State of Uttar Pradesh and Others* [2020] 11 SCR 786 : (2021) 5 SCC 795; *Nathi Lal v. State of Uttar Pradesh* (1990) SCC (Cri) 638 – referred to.

M/s. Nanak Builders and Investors Pvt. Ltd. v. Sh. Vinod Kumar Alag, ILR (1991) I Delhi 303 – referred to.

List of Acts

Penal Code, 1860; Code of Criminal Procedure, 1973.

List of Keywords

Cross FIRs; Quashing of complaint/FIR; Commission of cognizable offences; Misrepresentation, Fraud; Deception; Dishonest and fraudulent intent; Receipt-cum-agreement to sell; Suit for specific performance; Multiple transactions with respect to the subject property; Commercial transaction; Conspiracy to deceive and cheat; HUF; Karta; Misrepresentation; Suit for specific performance; Sale deed; Agreement to sell; Public notice; Clear title of the property; Extraordinary and inherent powers of the Court; No delay in FIR; Forged or fabricated; Conspiracy to deceive and cheat; No intention of selling the subject property; Misrepresented; Deceived; Part physical possession; Paper possession; Intention to cheat present since inception.

Supreme Court Reports**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1834 of 2025

From the Judgment and Order dated 17.10.2022 of the High Court of Delhi at New Delhi in CRLMC No. 4189 of 2022

Appearances for Parties

Advs. for the Appellant:

Ms. Mukta Gupta, Sr. Adv., Ms. Misha Rohatgi, Lokesh Bhola, Nakul Mohta, Abhishek Singh Chauhan, Ms. Nitya Gupta, Ms. Aditi Gupta, Ms. Riya Dhingra.

Advs. for the Respondents:

Mrs. Archana Pathak Dave, A.S.G., Shyam Diwan, Sr. Adv., Karan Khanuja, Kunal Khanuja, Pushpendra Singh Bhadoriya, Jasmeet Singh, Mukesh Kumar Maroria, Sanjay Kumar Tyagi, Rajan Kumar Chourasia, Digvijay Dam, Gaurang Bhushan, Ms. Vanshaja Shukla.

Judgment / Order of the Supreme Court**Judgment**

Manmohan, J

1. The present appeal has been filed challenging the judgment dated 17th October 2022 passed by the learned Single Judge, Delhi High Court in CrI. M.C. 4189/2022 (“impugned judgment”), whereby the petition under Section 482 of Criminal Procedure Code (“Cr.P.C.”) filed by the Respondent Nos. 2 and 3 herein, was allowed and the First Information Report (“FIR”) No. 94/2022 registered at Police Station Economic Offences Wing, Mandir Marg, New Delhi (“subject FIR” or “FIR”) for offences punishable under Section 467/468/471/420/120B of the Indian Penal Code (“IPC”), was quashed against Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3).
2. The issue which arises for consideration in the present appeal is whether the learned Single Judge, Delhi High Court, was justified in quashing the subject FIR against Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) and whether a cognizable offence against them is *prima facie* made out from a reading of the subject complaint?

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3. The relevant facts of the present case are as under:

3.1. It is the case of the Appellant that a Receipt-cum-Agreement to Sell dated 12th April, 2004 (“Agreement to Sell”) was executed by Bhai Manjit Singh, Vikramjit Singh (Respondent No. 2) and Maheep Singh (Respondent No. 3) (collectively referred to as “accused persons”) in favour of the Appellant for sale of the property i.e. 28-A, Prithvi Raj Road, New Delhi admeasuring 3727 sq. yds. (“property” or “subject property”) for a total sale consideration of Rs. 28,00,00,000/- (Rupees Twenty-Eight Crores). The accused persons, in the Receipt-cum-Agreement to Sell dated 12th April 2004, represented that Bhai Manjit Singh was *Karta* of Bhai Manjit Singh HUF. It was further represented by Bhai Manjit Singh that the property would be free from all encumbrances and that he would get the subject property converted to freehold before the transfer of the property in favour of the Appellant. The Receipt-cum-Agreement to Sell dated 12th April 2004 is reproduced hereinunder:

“Receipt

Received a sum of Rs.31,00,000/- (Rupees Thirty One Lacs Only) as earnest money from Mr. Punit Beriwal, S/o Shri S.S. Beriwal, r/o 15/10 Sarvapriya Vihar, New Delhi, against the sale of property No.28-A Prithiviraj Road, New Delhi, admeasuring 3727 sq. yards. The total sale consideration agreed upon is Rs.28 Crores (Rupees Twenty Eight Crores only). Further a sum of Rupees Thirty lakhs to be made by Thursday.

The sale is subject to the said property being free from all kinds’ charges, lien, encumbrances, prior sales, mortgages, litigation, claims, etc. The seller has agreed to get the said property freehold from the concerned authorities at his own expense before the transfer of the said property in favor of the PURCHASER i.e. Shri Punit Beriwal or his nominees.

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-SD-

SELLER

*Dated: 12.04.2004 Bhai Manjit Singh HUF
Through karta Bhai Manjit Singh S/o
r/o 2 south End Lane, New Delhi*

WITNESS

1. -SD-

*Maheep Singh
2 South End Lane, New Delhi*

2. SD/-

*Vikramjit Singh
2 South End Lane, New Delhi"*

- 3.2. As per the complaint, from 12th April 2004 to 03rd January 2005, the Appellant paid a sum of Rs.1,64,50,000/- (Rupees One Crore Sixty-Four Lacs Fifty Thousand) to Bhai Manjit Singh, which was acknowledged by various receipts, some of which were signed by Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) as witnesses. In pursuance of the Agreement to Sell, part physical possession of the servant quarter of the property was handed over to the Appellant vide letter of possession dated 22nd April 2004. It is the Appellant's case that the possession was mere paper possession, and he was not put in actual physical possession of any part of the property.
- 3.3. On 24th June 2016, one Ashok Gupta lodged an FIR No. 105/2016 against the accused persons alleging therein that an Agreement to Sell dated 29th December 2010 for the subject property had been executed in his favour and that he was also put in possession of the servant quarter of the subject property. The said FIR was subsequently quashed by the Delhi High Court vide its Order dated 13th December 2019 in W.P. (Crl.) 465/2019 in view of the settlement between the parties.
- 3.4. Upon the alleged failure of the accused person to provide documents for clear title of the property, the Appellant published a notice dated 18th July 2020 in the Hindustan Times declaring to the public at large that an Agreement to Sell for the subject property had been executed between the Appellant and the accused persons.

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- 3.5. In response to the said public notice, Punjab and Sind Bank, Rajendra Place, New Delhi issued an objection letter dated 20th July 2020 stating therein that the subject property had been mortgaged on 15th January 1996 by Bhai Manjit Singh for securing the loan granted to Montari Industries Limited.
- 3.6. Thereafter, SREI Infrastructure Finance Limited and SREI Equipment Finance Limited issued letters dated 22nd July 2020 stating that the subject property had been mortgaged with them as well.
- 3.7. Bhai Manjit Singh HUF issued a letter dated 23rd July 2020 in response to the public notice dated 18th July 2020, denying the existence of any Agreement to Sell for the subject property, followed by a public notice dated 13th August 2020 in Hindustan Times refuting the contents of the Appellant's notice dated 18th July 2020.
- 3.8. Surprisingly, on 22nd September 2020, a reply was issued by Bhai Manjit Singh HUF stating that Bhai Manjit Singh had returned the amount paid by the Appellant.
- 3.9. The aforementioned events led to filing of a suit for specific performance by the Appellant before the Delhi High Court being CS(OS) No. 598 of 2021 ("civil suit"). On the first date of hearing on 21st November 2021, the civil suit was adjourned to 8th December 2021 directing the Appellant to file requisite court fees. On 8th December 2021, counsel for the accused persons informed the Court that the subject property had been sold by Bhai Manjit Singh HUF. The Appellant thereafter obtained a copy of the sale deed dated 2nd December 2021, which revealed that the subject property had been sold by Bhai Manjit Singh HUF to a company, J.K. Paper Limited.
- 3.10. In the sale deed dated 2nd December 2021, it was stated that Bhai Manjit Singh resigned as *Karta* of the Bhai Manjit Singh HUF and transferred all rights, claim, title and entitlements in favour of the remaining members of the HUF and Vikramjit Singh (Respondent No. 2) was recognized as *Karta* of Bhai Manjit Singh HUF from 10th March 2000. It was further stated that an equitable mortgage was created in favour of SREI Infrastructure Finance Limited and SREI Equipment

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Finance Limited against the credit facility for an amount of Rs.87,00,00,000/- (Rupees Eighty-Seven Crore) availed by ADIZAA Investment Private Limited, in which Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) were Directors.

- 3.11. The Appellant thereafter filed a complaint dated 12th January 2022 against the accused persons before the Economic Offences Wing, which led to registration of the subject FIR on 16th June 2022.
- 3.12. In the meanwhile, the application under Order VII Rule 11 filed by the accused persons was dismissed by a learned Single Judge of the Delhi High Court vide Order dated 7th February 2022. The said Order dated 7th February 2022 was challenged by the accused persons in FAO (OS) 20/2022, wherein the civil suit filed by the Appellant was stayed by the Division Bench of the Delhi High Court vide its Order dated 29th March 2022.

ARGUMENTS ON BEHALF OF THE APPELLANT

4. Ms. Mukta Gupta, learned senior counsel for the Appellant, stated that the learned Single Judge while allowing the quashing petition had erroneously laid great emphasis on the delay in registration of the FIR and the fact that the FIR was registered after the civil suit had been stayed by the Division Bench.
5. She contended that there was no delay in lodging the FIR. She stated that from 2004 to 2020, the accused persons kept representing that they were getting the subject property converted from leasehold to freehold, even though the property had already been converted to freehold. She stated that the accused persons denied the existence of the Agreement to Sell for the very first time through their letter dated 23rd July 2020.
6. She stated that the Appellant became aware of further sale of property on 8th December 2021 and thereafter obtained a copy of the sale deed dated 2nd December 2021 in favour of J. K. Paper Limited, on 28th December 2021. She, therefore, stated that the dishonest intention of the accused persons was revealed for the very first time upon the discovery of sale deed and the mortgages mentioned therein, which were both prior and subsequent to the Agreement to Sell in favour of the Appellant.

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7. She pointed out that the FIR finally came to be registered on 16th June 2022; however, the Appellant had filed the complaint before the Economic Offences Wing without any delay on 12th January 2022. She submitted that the period of limitation in terms of Section 469 of the Cr.P.C. commences from the first day on which such offence comes to the knowledge of the person aggrieved. She, therefore, stated that in the present case, the period of limitation commenced on 28th December 2021 and the complaint was filed within fifteen days on 12th January 2022.
8. Even otherwise, she submitted that in terms of Section 468 Cr.P.C., there is no limitation period prescribed for offences which are punishable with imprisonment of more than 3 (three) years. She pointed out that the offences alleged in the present case are punishable with imprisonment of more than 3 (three) years; thus, there is no period of limitation in lodging the FIR.
9. She also submitted that delay in registration of the FIR cannot be the basis of interdicting a criminal investigation. She emphasized that the consequences for any alleged delay in registration of the FIR ought to be adjudicated after appreciation of evidence and entire material on record.
10. She stated that at the time of execution of the Receipt-cum-Agreement to Sell dated 12th April 2004, accused persons represented that Bhai Manjit Singh is the *Karta* of Bhai Manjit Singh HUF. She pointed out that the said Agreement to Sell-cum-Receipt was executed by Bhai Manjit Singh in his capacity as *Karta* of Bhai Manjit Singh HUF and was witnessed by Maheep Singh (Respondent No. 3) and Vikramjit Singh (Respondent No. 2) even though Vikramjit Singh (Respondent No. 2) was the *Karta* at the relevant time, which was revealed to the Appellant through sale deed dated 2nd December 2021 in favour of JK Paper Limited, which stated that Respondent No. 2 herein became *Karta* of Bhai Manjit Singh HUF on 10th March, 2000.
11. She stated that the fact that the property was already mortgaged with Punjab and Sind Bank on 15th January 1996, was revealed for the very first time through the letter dated 20th July 2020 issued by Punjab and Sind Bank in response to the Appellant's public notice dated 18th July 2020 published in the Hindustan Times.
12. She stated that the misrepresentation, deception and dishonesty to induce the Appellant commenced from the date on which the

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receipt-cum-Agreement to Sell dated 12th April 2004 was executed and therefore, the element of deception had existed from the very inception of the transaction. She stated that the accused persons deceived the Appellant into parting with a sum of Rs.1,64,50,000/- (Rupees One Crore Sixty-Four Lacs Fifty Thousand) between 12th April 2004 and 3rd January 2005, which had been acknowledged by receipts, wherein Bhai Manjit Singh had signed as *Karta* and Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) had signed as witnesses despite fully knowing that Bhai Manjit Singh was not the *Karta* of the HUF.

13. She stated that the deception continued even after the execution of the Receipt-cum-Agreement to Sell dated 12th April 2004 as Bhai Manjit Singh, Vikramjit Singh and Maheep Singh had executed another Agreement to Sell dated 29th December 2010 in favour of one Ashok Gupta, who was also allegedly put in part possession of the servant quarter of the subject property. She emphasised that identical modus operandi had been adopted by the accused persons with Ashok Gupta as well.
14. She stated that subsequent thereto, the property was once again mortgaged with possession to SREI Infrastructure Finance Limited and an equitable mortgage had been created in favour of SREI Equipment Finance Limited on 7th January 2019. She stated that the said mortgage was cleared on the same day as the sale deed dated 2nd December 2021 was executed in favour of J.K. Paper Limited.
15. She emphasized that the Sale Deed dated 2nd December 2021 categorically states that the property is free from all encumbrances, third-party claims, disputes, litigation even though the Appellant's suit for specific performance was pending before the learned Single Judge of the Delhi High Court. She highlighted that the sale deed had been executed during the pendency of the suit for specific performance filed by the Appellant.
16. She stated that the accused persons acting in collusion had created various chains of documents in favour of various persons. She pointed out that the Agreements in favour of the Appellant and Ashok Gupta had been executed by Bhai Manjit Singh, acting as *Karta* of Bhai Manjit Singh HUF, whereas the sale deed dated 2nd December 2021

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in favour of J.K. Paper Limited had been executed by Vikramjit Singh acting as *Karta* of Bhai Manjit Singh HUF. She further pointed out that all accused persons are parties to the documents created in favour of various persons, thereby showing a well-planned conspiracy to cheat, misrepresent and deceive.

17. She highlighted that on 23rd July 2020 Bhai Manjit Singh HUF denied the existence of any Agreement to Sell. However subsequently, on 22nd September 2020, Bhai Manjit Singh stated that the advance consideration had been returned to the Appellant and that except Bhai Manjit Singh, no other person from the HUF had met the Appellant. She pointed out that subsequently vide notice dated 09th October 2020, the Appellant sought copies of receipts showing the alleged repayment; however, till date no such receipts have been provided to the Appellant. She stated that on 22nd August 2022, an FIR was registered by Bhai Manjit Singh against the Appellant, alleging for the first time that the receipts of payment in favour of the Appellant were forged and fabricated. She emphasized that such contradictory stands of all three accused persons are required to be investigated by the police authorities.
18. She stated that the Appellant was never handed over possession of any part of the subject property. According to her, the letter of possession dated 22nd April 2004 was only intended to give paper possession to the Appellant and not the actual physical possession.
19. She contended that institution of civil proceedings cannot act as a bar to the investigation of cognizable offences. She submitted that it is settled law that civil and criminal proceedings can proceed simultaneously.
20. She pointed out that the present case involves two cross-FIRs. On the one hand is the subject FIR dated 16th June 2022 registered by the Appellant against the accused persons, which has been quashed qua the Respondent Nos. 2 and 3 vide the impugned judgment. Whereas the other FIR dated 22nd August 2022 registered by Bhai Manjit Singh against the Appellant with respect to the same transaction is still subsisting even though the subject FIR was registered prior to the FIR against the Appellant. According to her, cross-FIRs are required to be investigated and tried together, and investigation ought not to be stifled at a nascent stage.

Supreme Court Reports**ARGUMENTS ON BEHALF OF RESPONDENT NO. 2**

21. Mr. Shyam Divan, learned senior counsel for Vikramjit Singh (Respondent No. 2), stated that the subject FIR had been rightly quashed by the learned Single Judge. He stated that there is not a single representation or correspondence on record which shows that the Appellant from 2004 to 2020 had taken any steps for purchase of the property. He stated that it was unbelievable that the sale of a prime and valuable property was done by way of an oral Agreement to Sell. He further stated that no reasonable person would wait for a period of more than 16 (sixteen) years to affect the sale of property in his favour. He stated that no complaint or FIR should '*be entertained at this distance of time*'.
22. He pointed out that it is only the first alleged receipt dated 12th April 2004 which bears the signature of Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) as witnesses. He stated that the only allegation against Respondent Nos. 2 and 3 is that they had signed the alleged Agreement to Sell as witnesses and that they were aware that Bhai Manjit Singh was not *Karta* of the HUF. According to him, mere signatures of Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) on a receipt as witnesses is not sufficient to initiate criminal proceedings against them and the same does not constitute any of the offences alleged in the FIR.
23. He emphasized that the criminal proceedings against Bhai Manjeet Singh, who is the alleged executor of the Agreement to Sell, are continuing till date and the FIR has been quashed only qua Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3). He stated that in addition to the FIR against Bhai Manjeet Singh, the suit for specific performance of the alleged Agreement to Sell is also pending before the Delhi High Court and the Appellant can seek appropriate relief qua the subject property in the said civil suit.
24. He submitted that an essential ingredient of the offence of cheating is that the intention to deceive must exist at the very inception. He stated that as part physical possession was handed over to the Appellant, there was no intention of deceiving the Appellant from the inception. He pointed out that even alleged possession letter dated 22nd April 2004 is signed only by Bhai Manjit Singh, ruling out any involvement of Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3).

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25. Learned senior counsel for Maheep Singh (Respondent No. 3) stated that Maheep Singh is a 73-year-old lady, who had signed on only two of the alleged receipts of payments made by the Appellant. He pointed out that Maheep Singh was not the *Karta* of the HUF at any point of time. He therefore stated that Maheep Singh (Respondent No. 3) cannot be treated at par with either Bhai Manjit Singh or Vikramjit Singh (Respondent No. 2).

ARGUMENTS ON BEHALF OF RESPONDENT NO. 1/STATE OF NCT OF DELHI

26. Ms. Archana Pathak Dave, learned ASG appearing for the State (Respondent No. 1), stated that the FIR had been quashed at the nascent stage of investigation. She stated that Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) had refused to furnish their specimen signatures and refused to comply with Section 91 Cr.P.C. notices issued by the Police.

REASONING**SIMILAR RECEIPTS TREATED AS CONTRACT/AGREEMENT TO SELL**

27. The common foundation underlying the submissions of learned senior counsel for Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) and the impugned order that the Agreement to Sell in question is not a written but an oral Agreement, is contrary to facts and untenable in law. The Delhi High Court, whose judgments shall bind the parties including the police/investigating agency, has repeatedly treated receipts, like the receipt dated 12th April 2004, as a Contract/Agreement to Sell whose specific performance can be sought. In ***M/s. Nanak Builders and Investors Pvt. Ltd. vs. Sh. Vinod Kumar Alag***, **ILR (1991) 1 Delhi 303**, Justice Arun Kumar, a learned Single Judge of the Delhi High Court (as his Lordship then was) has held, “*Mere heading or title of a document cannot deprive the document of its real nature. Law is well settled in such matters that it is the substance which has to be seen and not the form the document though titled as a ‘receipt’ contains all the essential ingredients of a ‘contract’ and therefore, this is a contract and the plaintiff can seek specific performance thereof.*”

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MERE INSTITUTION OF CIVIL PROCEEDINGS CANNOT ACT AS A BAR TO INVESTIGATION OF COGNIZABLE OFFENCES

28. It is trite law that mere institution of civil proceedings is not a ground for quashing the FIR or to hold that the dispute is merely a civil dispute. This Court in various judgments, has held that simply because there is a remedy provided for breach of contract, that does not by itself clothe the Court to conclude that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court. This Court is of the view that because the offence was committed during a commercial transaction, it would not be sufficient to hold that the complaint did not warrant a further investigation and if necessary, a trial. [See: **Syed Aksari Hadi Ali Augustine Imam v. State (Delhi Admin.) (2009) 5 SCC 528, Lee Kun Hee v. State of UP (2012) 3 SCC 132 and Trisuns Chemicals v. Rajesh Aggarwal (1999) 8 SCC 686]**

WHILE QUASHING, MUST BELIEVE ALLEGATIONS IN COMPLAINT

29. It is settled law that power of quashing of a complaint/FIR should be exercised sparingly with circumspection and while exercising this power, the Court must believe the averments and allegations in the complaint to be true and correct. It has been repeatedly held that 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. Extraordinary and inherent powers of the Court should not be used in a routine manner according to its whims or caprice.
30. In **Neeharika Infrastructure v. State of Maharashtra (2021) 19 SCC 401**, this Court has held as under:-

“33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or “no coercive steps to be adopted”, during the pendency of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the investigation or till the final

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report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1. 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 a cognizable offence.

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. 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.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the “rarest of rare cases” (not to be confused with the formation in the context of death penalty).

33.5. 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.

33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8. 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 and one ought not to tread over the other sphere.

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

33.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and

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the judicial process should not interfere at the stage of investigation of offences.

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

33.12. 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. 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.

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

33.14. 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 R.P. Kapur and Bhajan Lal, has the jurisdiction to quash the FIR/complaint.

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

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33.16. The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or “no coercive steps to be adopted” and the accused should be relegated to apply for anticipatory bail under Section 438CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or “no coercive steps” either during the investigation or till the investigation is completed and/or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India.

33.17. Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482CrPC and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

33.18. Whenever an interim order is passed by the High Court of “no coercive steps to be adopted” within the aforesaid parameters, the High Court must clarify what does it mean by “no coercive steps to be adopted” as the term “no coercive steps to be adopted” can be said to be too vague and/or broad which can be misunderstood and/or misapplied.”

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AS PER THE COMPLAINT/FIR, RIGHT FROM THE INCEPTION,
THERE WAS MISREPRESENTATION BY VIKRAMJIT SINGH AND
MAHEEP SINGH

31. This Court is of the view that the conclusion of the learned Single Judge that the complaint / FIR on its face did not disclose offences under Sections 467, 468, 471, 420, 120-B IPC against Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3), is factually incorrect. If the averments in the complaint are to be believed, which is the norm that is to be followed at this stage, then the subject FIR/ complaint reveals commission of cognizable offences by (son and mother) Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) also as they despite being aware that Bhai Manjit Singh (father of Vikramjit Singh and husband of Maheep Singh) had no authority to enter into an Agreement to Sell on behalf of the HUF (as he was not the *Karta* of HUF on the said date), allowed Bhai Manjit Singh to misrepresent with dishonest and fraudulent intent that he was the *Karta* of Bhai Manjit Singh HUF. This misrepresentation assumes serious connotation as at the relevant time i.e. 12th April 2004, the *Karta* of Bhai Manjit Singh HUF to the knowledge of Vikramjit Singh and Maheep Singh (witnesses to the receipt) was none other than Vikramjit Singh. It was due to this deception/misrepresentation/fraud that the Appellant parted with a sum of Rs.1,64,50,000/- (Rupees One Crore Sixty-Four Lakhs Fifty Thousand Only) from 12th April 2004 to 03rd January 2005 – some receipts of which were also witnessed by Vikramjit Singh and Maheep Singh (Respondent Nos.2 and 3). Consequently, as per the allegation in the complaint/FIR, right from the inception of the transaction between the parties, the Appellant was misrepresented, defrauded, deceived with dishonest and fraudulent intent by Vikramjit Singh and Maheep Singh (Respondent Nos.2 3). Accordingly, this Court is of the opinion that all accused persons acted in conspiracy to deceive and cheat the Appellant with no intention of selling the subject property to the Appellant.

MISREPRESENTATION BY ALL THREE ACCUSED IS THE
OFFENCE COMPLAINED OF

32. This Court is of the view that the learned Single Judge misdirected himself by concluding that the only allegation against Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) is that they were witnesses to the Receipt-cum-Agreement to Sell dated 12th April 2004,

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whereas, the gravamen of the allegation was that Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) were equally guilty of misrepresentation as, despite their knowledge to the contrary (as they were all closely related as well as members of the said HUF and Vikramjit Singh was actual *Karta*), they allowed Bhai Manjit Singh who was not competent to execute the Receipt-cum-Agreement to Sell on behalf of Bhai Manjit Singh HUF to represent himself as the *Karta* and execute the same. Consequently, the underlying act of misrepresentation by Bhai Manjit Singh, Vikramjit Singh and Maheep Singh (all three) is the offence by which the Appellant is aggrieved, and not the mere act of signing the receipt as witnesses. However, the learned Single Judge has neither dealt with nor examined the said aspect in the impugned judgment.

DEFENCE OF PART POSSESSION INSPIRES NO CONFIDENCE

33. The learned Single Judge has also held that the intention to cheat was not present since inception because as per the FIR, part possession of servant quarter of the property was handed over to the Appellant. However, what the learned Single Judge has failed to appreciate is that the Appellant had categorically alleged that the possession of the property is still with the accused persons, thereby rendering a mere paper possession. Further, the factum that the said possession was not treated seriously even by Vikramjit Singh and Maheep Singh (Respondent Nos.2 and 3) is apparent from the fact that when a similar Agreement to Sell was subsequently executed with Mr. Ashok Gupta, similar possession of the servant quarter was handed over to him also. Moreover, the fact that a Sale Deed was ultimately executed in favour of J.K. Paper Limited without reference to any such possession being handed over to Appellant shows that even the accused treated the said possession as a mere paper possession and a formality.
34. The learned Single Judge further failed to notice that admittedly Vikramjit Singh and Maheep Singh (Respondent Nos.2 and 3) continued to deal with the property after executing the Receipt-cum-Agreement to Sell by executing a registered mortgage, Agreement to Sell and Sale Deed. It is pertinent to mention that the mortgage with possession with SREI Infrastructure Finance Limited and an equitable mortgage in favour of SREI Equipment Finance Limited was created for availing credit facility by ADIZAA Investment Private

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Limited, wherein Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) were Directors. This Court is of the view that if the Appellant had indeed parted with part possession of the property to the Appellant, then a registered mortgage with possession could not have been created in favour of SREI Infrastructure Finance Limited or an Agreement to Sell with Mr. Ashok Gupta or Sale Deed with J.K. Paper Limited.

35. Admittedly, the property was sold to J.K. Paper Limited vide sale deed 2nd December 2021, which was executed by Vikramjit Singh (Respondent No.2) as *Karta* of Bhai Manjit Singh HUF. The fact that the said sale deed had been executed after the Appellant filed the suit for specific performance of the Receipt-cum-Agreement to Sell dated 12th April 2004 lends credence to the allegations made by the Appellant that the accused persons by misrepresentation and deception had entered into multiple transactions with respect to the subject property.

DELAY CANNOT BE A GROUND FOR QUASHING THE PRESENT FIR

36. Further, accepting the reasoning given by the learned Single Judge in the impugned order that *'there had been a delay in registration of the FIR and because of such delay, the allegations made by the Appellant are unbelievable'* and the submissions of learned senior counsel for Respondent Nos.2 and 3 that no complaint/FIR should be entertained *'at this distance of time'*, would mean in effect in accepting the argument that delay is a sufficient ground for quashing of the present FIR/complaint.
37. It is settled law that delay in registration of the FIR for offences punishable with imprisonment of more than three years cannot be the basis of interdicting a criminal investigation. The delay will assume importance only when the complainant fails to give a plausible explanation and whether the explanation is plausible or not, has to be decided by the Trial Court only after recording the evidence. In this context, the Supreme Court in ***Skoda Auto Volkswagen (India) Private Limited v. State of Uttar Pradesh and Others (2021) 5 SCC 795*** has held, *"The mere delay on the part of the third respondent complainant in lodging the complaint, cannot by itself be a ground to quash the FIR. The law is too well settled on this aspect to warrant any reference to precedents...."*

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38. Further, as per the allegations in the complaint/FIR during 2004-2020 the accused persons kept representing that they were in the process of getting the property unencumbered and converted to freehold. Upon the failure of the accused persons to show documents for clear title of the property, the Appellant had initially instituted a suit for specific performance, and it was only during the suit proceedings that it came to light that after the Agreement to Sell with the Appellant, the property was subsequently mortgaged to SREI Infrastructure Finance Limited and SREI Equipment Finance Limited and the same was subsequently sold to J.K. Paper Limited vide sale deed dated 02nd December 2021. The fact that Vikramjit Singh (Respondent No. 2) was the *Karta* of the Bhai Manjit Singh HUF at the relevant time was also allegedly revealed for the very first time through the aforesaid sale deed dated 02nd December 2021, certified copy of which was obtained by the Appellant on 28th December 2021. Consequently, the fact of misrepresentation and deception at the inception, that is, at the time of execution of the Receipt-cum-Agreement to Sell dated 12th April 2004, came to the knowledge of the Appellant (according to the complaint) only on 28th December 2021.
39. The Appellant had, admittedly, filed the complaint before the Economic Offences Wing on 12th January 2022. Section 469 Cr.P.C. provides that the period of limitation commences from the date on which the offence comes to the knowledge of the person aggrieved. In the present case, as noted above, the Appellant became aware of the offence only on 28th December 2021. Consequently, *prima facie* there is no delay in filing the criminal proceedings.
40. Even otherwise, as the learned senior counsel for the Appellant has rightly pointed out, in terms of Section 468 Cr.P.C., there is no period of limitation for offences which are punishable with imprisonment of more than three years.

COMPLAINT WAS FILED MUCH BEFORE THE SUIT WAS STAYED

41. The learned Single Judge has also clearly erred in concluding that the FIR was lodged after only after the civil suit filed by the Appellant had been stayed by the Division Bench of the Delhi High Court. However, the record reveals that the application under Order VII Rule 11 filed by the accused persons was dismissed by a learned Single Judge of the Delhi High Court on 7th February 2022. The said Order dated

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7th February 2022 was challenged by the accused persons, wherein the civil suit filed by the Appellant was stayed by the Division Bench of the Delhi High Court on 29th March 2022. The complaint against the accused persons was filed by the Appellant on 12th January 2022 i.e. much before the civil suit was stayed.

CROSS FIRs ARE REQUIRED TO BE HOLISTICALLY INVESTIGATED

42. The accused persons have taken various inherently contradictory stands with respect to the transaction with the Appellant. On 23rd July 2020 Bhai Manjit Singh and Bhai Manjit Singh HUF denied the existence of any Agreement to Sell. On 22nd September 2022, Bhai Manjit Singh and Bhai Manjit Singh HUF stated that the advance consideration had been returned to the Appellant and that except Bhai Manjit Singh, no other person from the HUF had met the Appellant. Finally, after the registration of the subject FIR dated 16th June 2022, Bhai Manjit Singh and Bhai Manjit Singh HUF registered an FIR dated 22nd August 2022, alleging that the receipts of payment in favour of the Appellant and relied upon by him in his civil suit as well as the FIR dated 16th June 2022, were forged and fabricated.
43. Keeping in view the contradictory defences of the accused as well as the registration and pendency of the cross FIRs, this Court is of the view that the learned Single Judge should not have limited the scope of investigation.
44. In the context of cross cases, this Court in **Nathi Lal v. State of Uttar Pradesh (1990) SCC (Cri) 638** has held as under:-

"2. We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced

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by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.”

45. Even though the above decision was rendered in respect of trial of cross cases, this Court is of the opinion that in cases involving cross-FIRs, it would be prudent and fair if the investigation was carried out in a comprehensive manner. After all, the object of the investigation is the discovery of truth. In the present case, in view of cross-FIRs, the investigating authority will conclude that either the receipts in favour of the Appellant are forged and fabricated or that the receipts are genuine. The complicity of Respondent Nos. 2 and 3 herein can only be ascertained once the investigation is permitted to reach its logical conclusion.

CONCLUSION

46. Keeping in view the aforesaid findings, the impugned judgment and order dated 17th October 2022 passed by the learned Single Judge in CrI. M.C. 4189/2022 is set aside and FIR No.94/2022 registered at Police Station Economic Offences Wing, Mandir Marg, New Delhi for offences punishable under Section 467/468/471/420/120B IPC against Vikramjit Singh and Maheep Singh (Respondent Nos. 2 and 3) is revived. Accordingly, the present Appeal is disposed of.
47. It is clarified that the aforesaid findings have been given in the context of quashing of the complaint/FIR and shall not bind the Courts below while deciding the matter.

Result of the case: Appeal disposed of.