

M/S Ferrous Infrastructure Pvt. Ltd. & ... vs State Of N.C.T. Of Delhi & Anr on 14 September, 2021

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1921/2021
M/S FERROUS INFRASTRUCTURE PVT. LTD. & ANR.

..... Petitioners

Through: Ms. Namitha Mathew, Adv.

versus

STATE OF N.C.T. OF DELHI & ANR. Respondents

Through: Ms. Asha Tiwari, APP for State with
SI Ved Prakash, PS Sarita Vihar.
Mr. Nitesh Jain, Adv. for
complainants.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

% 14.09.2021 (through physical hearing) The status report of the State in terms of order dated 18.08.2021 has been submitted. The status report submitted under signature of the SHO, PS Sarita Vihar states to the effect that there is no previous involvement/ conviction against the alleged Ashish Seth, Mohit Garg and Dev Kumar, of whom, Ashish Seth and M/s Ferrous Infrastructure Pvt. Ltd. alone are arrayed as parties to the present petition as petitioners with it having been submitted further by the State through the status report that there are around 33 FIRs against the petitioner no.1, Ferrous Infrastructure Pvt. Ltd. and its directors as detailed in the said status report to the effect:

"i) FIR No. 231/2019 to 245/2019 dated 21/11/2019

ii) FIR No. 248/2019 to 262/19 dated 21/11/2019 all U/S 406/ 409/420/467/ 468/471/506/120B IPC were registered in EOW, Delhi on 22/11/2019 on the direction of Sh.

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Deepak Sherawat Ld CMM, Saket Court, New Delhi u/s 156(3) CrPC.

- iii) FIR No. 29/2020 dated 20/03/2020 u/s 420/406/120B IPC is also registered at EOW, Delhi,
- iv) FIR No. 323/2020 dated 6/8/2020 u/s 420/34 IPC is also registered at P S Greater Kailesh, ND.
- iv) FIR No. 716/2016 dated 14/09/2016 u/s 420 IPC is registered at P S Neb Sarai, Delhi. All the above FIRs are Pending Investigation."

It is at this stage submitted by learned counsel Mr. Nitesh Jain that he represents 30 complainants and submits that their complaints in terms of the order of the Hon'ble Supreme Court in Petition for Special Leave to Appeal (Crl.) 9198/2019, dated 25.11.2019 whereby there has been a stay of the operation of the order of this Court in Crl.Ref.1/2014 dated 08.07.2019 and to be investigated with the FIR of which quashing is sought by the present petition by the petitioners.

It has further been submitted by learned counsel qua the stated 30 complainants that the question of Reference (a) which reads to the effect:

"a. Whether in a case of inducement, allurement and cheating of large number of investors/ depositors in pursuance to a criminal conspiracy, each deposit by an investor constitutes a separate and individual transaction or all such transactions can be amalgamated and clubbed into a single FIR by showing one investor as complainant and others as witnesses?"

was answered vide para 62 by the Hon'ble Division Bench of this Court in Crl.Ref.1/2014 dated 08.07.2019, which reads to the effect:

"62. Thus, our answer to Question (a) is that in a case of inducement, allurement and cheating of large number of investors/ depositors in pursuance to a criminal conspiracy, each deposit by an investor constitutes a separate and individual transaction. All such transactions cannot be Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:15.09.2021 17:25:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

amalgamated and clubbed into a single FIR by showing one investor as the complainant, and others as witnesses. In respect of each such transaction, it is imperative for the State to register a separate FIR if the complainant discloses commission of a cognizable offence."

the operation of which inter alia has been stayed by the Hon'ble Supreme Court vide order dated 25.11.2019 with it having been submitted by learned counsel present that there was no necessity for the said 30 complainants to seek any separate registration of FIRs. It is submitted by learned counsel present for the said alleged 30 complainants that the Delhi Police has thus merged the said complaints with the present FIR. The said submissions that are made by the learned counsel may be placed on record with an affidavit of the said 30 complainants with a copy thereof being supplied to the petitioners, to the respondent no.2 and the State. The said submissions have been made by

learned counsel present for the said 30 complainants submitting to the effect that the said 30 complainants are thus opposing the prayer made by the petitioners vide the present petition seeking quashing of the FIR.

The State also opposes the prayer made by the petitioners seeking quashing of the present FIR submitting that the offence under Section 420 of the of the Indian Penal Code, 1860 is compoundable before the learned trial Court.

The status report in response be submitted by the State. The application, if any, of the said 30 complainants be filed within 5 days so that the response of the State thereto is placed on record before the next date of hearing.

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Renotify for 07.10.2021.

ANU MALHOTRA, J SEPTEMBER 14, 2021 vm Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:15.09.2021 17:25:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.