

M/S Core Fiscal Services Pvt Ltd vs Nct Of Delhi Through E.O.W on 31 May, 2016

Author: Siddharth Mridul

Bench: Siddharth Mridul

#33

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 31.05.2016

W.P.(CRL) 282/2014 & CRL.M.A.17038-17040/2015

M/S CORE FISCAL SERVICES PVT LTD

..... Petitioner

Through:

Mr. Maninder Singh, Advocate with
Ms. Aekta Vats, Advocate

versus

NCT OF DELHI THROUGH E.O.W

..... Respondent

Through: Mr. Rajesh Mahajan, ASC (Criminal)
with Ms. Parul Jamwal, Advocate and
Inspector Anil Kumar, PS- EOW for
R-1
Mr. Faraz Maqbool, Advocate for R-2
to R-6

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking quashing of FIR No.48/2013, under Sections 467/120B/468/409/471/420/477A IPC, registered at Police Station- EOW, Crime & Railways, and the proceedings arising therefrom.

2. The subject FIR came to be registered on the basis of a complaint filed by respondent Nos.2 to 6, namely, Mr. Deepak Satija, Ms. Gunjan Satija, Ms. Prachee Satija, Ms. Usha Satija and Mr. Senapati Satija alleging that the petitioner company had cheated them during the course of a transaction for acquiring shares on their behalf.

3. Counsel appearing on behalf of the petitioner, as well as counsel appearing on behalf of respondent Nos.2 to 6/complainants herein, on instructions from the latter, who are present in

person in Court today, state that subsequent to the registration of the subject FIR, they have arrived at an amicable out of court resolution of the underlying dispute, that led to the registration of the subject FIR, by way of a Memorandum of Understanding dated 21.05.2016. The salient terms and conditions of the Memorandum of Understanding deed dated 21.05.2016 are as follows:-

1. The settlement between the parties envisages resolution of all disputes and their differences. The parties agreed that with the due implementation of their respective obligations under the present Memorandum of Understanding, there shall not remain any claim of either party outstanding on the other, either individually or collectively. The parties have agreed that:

A. Simultaneous to the signing of the present Memorandum of Understanding, the party of the second part has handed over cheque no.059376, dated 21.05.2016 drawn on Oriental Bank of Commerce in favour of Networth Comtrade Private Limited (Party of the First Part) for a sum of Rs.2,00,000/- (Rupees Two Lacs Only) towards full and final settlement of all pending disputes between them including subject matter of Civil Suit No.385/2015 titled 'M/s.

Networth Comtrade Pvt. Ltd. V. M/s. Forwarderes Inc. & Ors.' pending before the Court of District Judge, Tis Hazari, New Delhi.

B. The First Party shall not have any other claim in respect of any other pending proceedings or otherwise against the Second Party other than seeking the said amount of Rupees Two Lacs only.

C. Simultaneous to the signing of the present Memorandum of Understanding, Parties have acknowledged and endorsed the following documents for their genuineness and correctness (Originals of these documents are not traceable and this endorsed copy would be treated as 'Original' from now on):

Sale Deed dated 29th April, 2013 for transfer in favour of Ms. Prachee Satija and Mrs. Usha Satija (Party of the Second Part) of the above-mentioned immovable property at Sector-43, Gurgaon, Haryana;

Conveyance deed dated 29th April, 2013 in favour of Party of the First Part regarding the above-mentioned immovable property at Sector-43, Gurgaon, Haryana;

Re-Allotment Letter dated 7th May, 2013 issued by Haryana Urban Development Authority (HUDA) in favour of Party of the Second Part;

D. Simultaneous to the signing of the present Memorandum of Understanding; the Parties are also executing a Final Payment Receipt regarding the above-mentioned immovable property at Sector-43, Gurgaon, Haryana.

E. The First Party acknowledges and confirms the transfer under the Settlement Agreement dated 20th April, 2013 of the above-mentioned immovable property bearing Plot No.898 situated at Sector-43, Gurgaon, Haryana, ad-measuring 14 Marla (342 sq. yds./286 Sq. Mtrs.) by Networth Comtrade Private Limited (Party of the Second Part) effected through Sale Deed dated 29th April, 2013 registered under Sr. No.2471, Book No.1, in the office of Sub-Registrar, Gurgaon (Haryana). The First Party further acknowledges and confirms that the said immovable property now belongs absolutely to the Second Party and that the First Party has no claim whatsoever, towards the same and will never interfere in the use and enjoyment thereof.

2. In lieu of the full and final settlement in terms of the above-

mentioned Clause-I, the present Memorandum of Understanding shall be implemented in the following manner:-

A. That the Party of the First Part agrees and undertakes to unconditionally withdraw and abandon claim in the above-mentioned Civil Suit No.385/2015 titled 'M/s.

Networth Comtrade Pvt. Ltd. V. M/s. Forwarderes Inc. & Ors.' pending before the Court of District Judge, Tis Hazari, New Delhi on or before the next date of hearing which is 06.06.2016 by moving an appropriate application under Order 23 Rule 1 of the Code of Civil Procedure, 1908.

B. After withdrawal of the Civil Suit under Clause II(A) above, the Party of the First Part shall place on record the true copy of the present MoU in the pending Writ Petition (Crl.) No.282/2014 titled 'M/s. Core Fiscal Services Pvt. Ltd. V. NCT of Delhi & Ors.' before the Hon'ble High Court of Delhi at New Delhi alongwith the affidavit of Mr. S. P. Satija of the Second Party. The First Party and Mr. S. P. Satija of the Second Party undertake to appear before the Hon'ble High Court for making a statement confirming the factum of settlement. The Second Party undertakes to give a no objection for quashing of the above said FIR before the Hon'ble High Court.

C. That in case the Parties have to move a joint petition, due to any reason, the same shall be prepared and file within 7 days of the withdrawal of the Civil Suit No.385/2015 and the First Party and Mr. S.P. Satija of the Second Party undertake to appear before the Hon'ble High Court for making their statement conforming the settlement between the parties and assisting the party of the first part in getting the FIR quashed by giving no objection before the High Court for the same.

D. That both parties agree that on the 1st date of hearing of the above-mentioned petition seeking quashing of FIR No.48/2013 and on all subsequent dates (if any), the first party and Mr. S.P. Satija of the second party would be present in person before the court and request the court to quash the FIR in terms of the present

Memorandum of Understanding.

3. That the parties agree that the sum of Rupees Two Lacs Only payable under this Memorandum of Understanding is full and final one-time settlement of all inter se claims (past, present and future) between the parties.

4. That pursuant to the signing of the present Memorandum of Understanding, both parties agree that they owe nothing to each other in any capacity or on account of any transaction whatsoever.

5. That pursuant to signing the present Memorandum of Understanding, the first party and the second party will not interfere in the life of each other in any manner including in reference to property situated at Village Manjhawali, Tehsil Ballabgarh, Faridabad, Haryana, purchased vide separate registered Sale Deeds dated 1st September, 2011 and 19th January, 2012 by Mrs. Usha Satija and Ms. Prachee Satija respectively (party of the second part) from M/s Quiet Marchers Infrastructure Ltd. (Registered office at E-46/12, Okhla Industrial Area, Phase II, New Delhi) of which Mr. Suresh Kumar (Party of the First Part) is one of the Directors.

6. That pursuant to signing the present Memorandum of Understanding the parties agree that they will not make any allegation against each other or their respective family members and will not file/institute/lodge any suit/complaint/petition or any other legal proceeding (civil or criminal) against each other in future in any court of law.

In the event that it is discovered that there is any claim, proceeding or litigation that has been instituted between the parties, the same shall be liable to be quashed and dismissed on the strength of the present agreement which records satisfaction of the parties towards each other on the basis of the reciprocal promises made herein.

7. That it has been agreed between the parties that they will adhere to the terms and conditions of this Memorandum of Understanding and will do all acts necessary for the expeditious compliance of the same and shall cooperate with each other and sign all the relevant documents that may be required for the purposes of implementation of the present Memorandum of Understanding.

8. That the contents of this Memorandum of Understanding have been read over to the parties and they have been explained the terms of this Memorandum of Understanding and they have understood the same to be true and shall be governed by the same.

9. That the parties agree and undertake not to resile in any manner from the terms of the present Memorandum of Understanding.

10. That both parties have executed this Memorandum of Understanding in presence of their advocates without any force, undue influence or coercion from any quarter, and both the parties

shall be stopped in law to assail the validity of any clause/term of the Memorandum of Understanding on the ground of the same being void or unlawful.

11. That both parties to the present Memorandum of Understanding undertake that they shall duly perform and abide by all the terms and conditions as contained in the present Memorandum of Understanding and in case of breach of any of the terms and conditions as envisaged hereinabove, the parties are liable to be punished under the provisions of Contempt of Courts Act, 1971 as the present Memorandum of Understanding shall be duly filed before all the above-mentioned Courts/Forums where there is pending litigation between the parties.

12. Two (2) copies of this Memorandum of Understanding shall be executed as 'originals' so that both the parties may possess an "original" fully executed document. The parties hereto expressly agree and recognize that each of these fully executed "originals", shall be binding and enforceable as an original document representing the Memorandum of Understanding set forth herein.

13. IN WITNESS WHEREON both the parties have signed this Memorandum of Understanding on the day, month and year first above written in the presence of the following witnesses."

4. Pursuant to the afore-stated Memorandum of Understanding dated 21.05.2016, the petitioner has executed the Sale-Deed dated 29.04.2013, in favour of the complainant, of an immovable property, bearing Plot No.898, situated at Sector-43, Gurgaon, Haryana, ad-measuring 14 Marla (342 sq. yards/286 sq. meters).

5. Correspondingly, the complainants/respondent Nos.2 to 6 in the present petition, have paid a sum of Rs.2,00,000/- (Rupees Two Lakhs only) in terms of the bargain, arrived at between them. Besides this, the Civil Suit No.385/2015, titled "M/s Networth Comtrade Pvt. Ltd. vs. M/s Forwarders Inc. & Ors." pending before the Court of District Judge, Tis Hazari Court, Delhi has since been withdrawn vide order dated 24.05.2016.

6. Counsel appearing on behalf of the parties state that quashing of the subject FIR shall apply a quietus to the dispute and the proceedings that were hitherto pending between the parties.

7. The complainants/respondent Nos.2 to 6, namely, Deepak Satija, Ms. Gunjan Satija, Ms. Prachee Satija, Ms. Usha Satija and Mr. Senapati Satija, who are present in person in Court today and have been identified by the IO in the subject FIR, namely, Inspector Anil Kumar, Police Station- EOW, Mandir Marg state that in view of the afore-stated amicable resolution, as enshrined in the Memorandum of Understanding dated 21.05.2016, they are no longer keen to prosecute the subject FIR and the proceedings arising therefrom.

8. In the present case, it is observed that the offence in the subject FIR does not fall within the exempted categories of serious/heinous offences which ought not to be quashed on the ground of an amicable resolution of the disputes. [Ref. Gian Singh vs. State of Punjab and Anr. reported as (2012) 10 SCC 303]. The offences alleged to have been committed in the subject FIR are private in nature and do not have a serious impact on society.

9. In view of the foregoing, since the dispute which resulted in the registration of the subject FIR has already been resolved amicably by and between the parties without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

10. Resultantly, the FIR No.48/2013, under Sections 467/120B/468/409/471/420/477A IPC, registered at Police Station- EOW, Crime & Railways, and the proceedings arising therefrom are hereby set aside and quashed qua the petitioner subject to the petitioner depositing a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with the Victims' Compensation Fund, Government of NCT of Delhi within a period of two weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR.

11. With the above directions, the writ petition is allowed and disposed of accordingly. Pending applications also stand disposed of.

SIDDHARTH MRIDUL, J MAY 31, 2016 dn