



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

% *Reserved on: 19th February, 2025*
Pronounced on: 26th May, 2025

+ **W.P.(CRL) 341/2023, CRL.M.A. 3220/2023 (stay),**
CRL.M.A. 12692/2023, CRL.M.A. 12702/2023

1. **M/S PIONEER URBAN LAND AND INFRASTRUCTURE LIMITED**

Through its Authorised Representative,
 Rajendra Kumar S/o Sh. Nand Lal,
 R/o H.No. 1951, Gali No. 55E IInd
 60 futa road, near babu Khemchand School,
 Molarband extn, Badarpur, South Delhi-110044.

Having its registered office at:
 Pioneer Square, 2nd Floor,
 Near Golf Course Extension Road,
 Sector-62, Gurugram-122098, HaryanaPetitioner No.1

2. **MANISH PERIWAL**
 S/o Sh. Mahabir Prasad Periwai
 R/o 9, New Road, P.O. Alipore, Kolkata,
 West Bengal-700027 ...Petitioner No.2

3. **ASHISH PERIWAL**
 S/o Sh. Mahabir Prasad Periwai,
 R/o 9, Near Road, P.O. Alipore, Kolkata,
 West Bengal-700027. ...Petitioner No.3

4. **MEENAKSHI PERIWAL**
 W/o Sh. Manish Periwai,
 R/o 9, New Road, P.O. Alipore, Kolkata,
 West Bengal-700027. ...Petitioner No.4

5. **SANDEEP AGARWAL**
 S/o Shri Shyam Sunder Agarwal,



R/o at 248, Rajouri Apartments,
Rajouri Garden, New Delhi-110064Petitioner No.5

6. MANIT JAJU
S/o Late Shri Mal Chand Jaju
R/o House No. 204, Deer Wood Chase,
Nirvana Country, South City-2, Gurgaon-122002
..Petitioner No. 6

7. DHARMIT SINGH CHOUDHARY
S/o Sh. Surjit Singh Chowdhury
R/o S-23B, Windsor Court, DLF Phase 4,
Gurgaon-122009 ...Petitioner No.7

8. SANJAY KUMAR MUNDHRA
S/o Sh. Shankar Lal Mundhra
R/o Mundhra House, European Quarter,
Near Police Line, Chaibasa,
Pashchimi Singhbhum, Jharkhand-833201 ...Petitioner No.8

Through: Mr. Dayan Krishnan, Sr. Adv. with
Mr. Arshdeep Singh Khurana, Mr.
Aditya Chopra, Mr. Manan Khanna,
Mr. Shreedhar Kale and Mr. Nikhil
Pawar, Advocates.

versus

1. STATE OF NCT OF DELHI
Through SHO,
PS Safdarjung Enclave,
Block A1, Block AB,
Sarojini Nagar,
South West Delhi, Delhi-110023
Email: dhcprosecutiondelhipolice@gmail.com
..Respondent No.1

2. MR. PANKAJ THAPLIYAL
S/o Sh. G.C. Thapliyal
R/o A-4, 902, World Spa East, Sector-30,



Gurgaon, Haryana

Email: pankajthapliyal1996@gmail.comRespondent No.2

3. MS. PRINCY THAPLIYAL (now Urvashi Princy Thapliyal)
W/o Sh. Pankaj Thapliyal
R/o A-4, 902, World Spa East, Sector-30,
Gurgaon, Haryana

Email: pankajthapliyal1996@gmail.com....Respondent No.3

Through: Mr. Amol Sinha, ASC for the State
with IO/SI Naveen Kumar, PS SJ.
Enclave.

Mr. Aishwarya Sharma, Advocate for
R2 & R3.

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+ **W.P.(CRL) 348/2023, CRL.M.A. 3230/2023 (stay),
CRL.M.A.12729/2023 & CRL.M.A.12730/2023**

1. M/s URBAN ECOINFRA PRIVATE LIMITED
Through its Authorised Representative,
Sanjay Kumar Mantari
S/o Sh. Jagdish Prasad Mantri
R/o 1078, LIC Colony, Plot No. 135,
Near Sanjay Colony, Okhla Industrial Area.,
Phase-2, Delhi-110020

Having its registered office at:
Unit No. 1011, Block C, 10th Floor,
Business Zone, South City-II,
Gurgaon, Haryana-122018

.....Petitioner No.1

2. SANJAY KUMAR MANTARI
S/o Sh. Jagdish Prasad Mantri
R/o 1078, LIC Colony, Plot No. 135,
Near Sanjay Colony, Okhla Industrial Area,
Phase-2, Delhi-110020

....Petitioner No. 2

3. RAKESH BOHRA



S/o Sh. Rikhab Raj Bohra
R/o F-004, Block-I, First Floor,
South City-II, Gurugram
Haryana-122018

....Petitioner No.3

4. SHYAM SUNDER PERIWAL
S/o Sh. Champa Lal Periwai
R/o 2224, Housing Board Colony, Sector-29,
Faridabad, Haryana-121008 ...Petitioner No. 4

5. HARI PRASAD RATHI
S/o Sh. Nath Mal Rathi
R/o 1078, LIC Colony, Ward No.30
Ganganagar, Rajasthan-335001 ...Petitioner No.5
Through: Mr. Arshdeep Singh Khurana, Mr.
Aditya Chopra, Mr. Manan Khanna,
and Mr. Nikhil Pawar, Advocates.
Advocate.

versus

1. STATE OF NCT OF DELHI
Through SHO,
PS Safdarjung Enclave,
Block A1, Block AB
Sarojini Nagar West Delhi, Delhi-110023
Email: dhcprosecutiondelhipolice@gmail.com
.....Respondent No.1
2. MR. PANKAJ THAPLIYAL
S/o Sh. G.C. Thapliyal
R/o A-4, 902, World Spa East, Sector-30,
Gurgaon, Haryana ...Respondent No.2
3. MS. PRINCY THAPLIYAL (now Urvashi Princy Thapliyal)
W/o Sh. Pankaj Thapliyal
R/o A-4, 902, World Spa East, Sector-30,
Gurgaon, HaryanaRespondent No.3



Through: Mr. Amol Sinha, ASC for the State
with IO/SI Naveen Kumar, PS SJ.
Enclave.
Mr. Aishwarya Sharma, Advocate for
R2 & R3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

W.P.(CRL) 341/2023 & W.P.(CRL) 348/2023

1. Writ Petitions under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) have been filed on behalf of the Petitioners seeking quashing of ***FIR No. 375/2021 under Section 420/34 of the Indian Penal Code, 1860*** (*hereinafter referred to as 'IPC'*) dated 23.12.2021, Police Station Safdarjung Enclave and all the proceedings emanating therefrom.
2. It is submitted in the Writ Petition bearing W.P.(CRL) 341/2023, that the **Petitioner No. 1, M/s Pioneer Urban Land & Infrastructure Limited** is the Registered Company under the Companies Act, 2013 and engaged in the business of real estate development in Gurgaon for the last many years and enjoys a significant amount of respect and reputation in both the business community as well as the Society at large. **Petitioner No. 2, Mr. Manish Periwal is the Managing Director while Petitioner No. 3, namely, Mr. Ashish Periwal and Petitioner No. 4, Ms. Meenakshi Periwal are the Directors. Petitioner No. 5, Mr. Sandeep Agarwal** was the Chief Financial Officer of the Petitioner No. 1 Company from



01.04.2015 till the date of his resignation i.e. 31.08.2021. He was never the Director of the said Company. **Petitioner No. 6, Mr. Manit Jaju is the Ex-Director. Petitioner No. 7, Mr. Dharmit Singh Choudhary** is the Vice President and has never been the Director of the Company. **Petitioner No. 8, Mr. Sanjay Kumar Mundhra** is an Independent Director from 23.03.2015 till date.

3. It is further submitted in the *Writ Petition bearing W.P.(CRL) 348/2023*, seeking quashing of the same aforementioned FIR filed by the other accused persons, namely **Petitioner No. 1/M/s Urban EcoInfra Private Limited** the Registered Company under the Companies Act, 2013 was a construction company and had only contractual dealings with M/s Pioneer Urban Land & Infrastructure Ltd. ; **Petitioner No. 2, Mr. Sanjay Kumar Mantari** is the Non-Executive Director from 12.10.2016 till date. The **Petitioner No. 3, Mr. Rakesh Bohra** was the Managing Director from 01.04.2013 to 03.07.2017. **Petitioner No. 4, Mr. Shyam Sunder Periwal** was the Director from 01.01.2013 to 03.07.2017. **Petitioner No. 5, Mr. Hari Prasad Rathi** was a Non-Executive Director from 12.10.2016 to 24.07.2020. It is submitted that the Petitioner Nos. 2 to 5 have all been Directors in the said Company only during and after 2013.

4. In October, 2012, the Respondent Nos. 2 and 3/ *the Complainants* expressed their interest in purchasing an Apartment in the Project and entered into the *Building Buyer Agreement* dated 02.09.2013 for purchase of one Apartment No. D-2301 admeasuring 5761 square feet in the said Apartment in Tower D in Project Arya at Sector-62, Gurgaon, with **Petitioner No. 1, M/s Pioneer Urban Land & Infrastructure Limited** which



in turn entered into a contract for construction of the said Project with *M/s Urban EcoInfra Private Limited*, in around March, 2013.

5. An Allotment Letter dated 22.11.2012 was issued to the Respondent Nos. 2 and 3 by the Petitioner No. 1/*M/s Pioneer Urban Land & Infrastructure Limited*, who in turn paid an amount of Rs.40,00,000/- towards the earnest money.

6. Consequent to the Allotment Letter, the Petitioner No. 1/ *M/s Pioneer Urban Land & Infrastructure Limited* made a demand *vide* Letter dated 21.01.2013, Respondent Nos. 2 and 3 remitted this amount on 31.01.2013 in the account of the said Petitioner No. 1. In all, Respondent No. 2 and 3 paid a sum of Rs.1,08,94,040/- i.e. 27.1% of the agreed cost of the total cost of the Apartment which was around Rs.7,32,00,556/-.

7. The **Respondent No. 2 filed an Application under Section 156(3) Cr. PC before the Ld. MM bearing CT Case No. 3976/2020** alleging that the Apartment was to be delivered within a period of 39 months. However, the Petitioner No. 1/*M/s Pioneer Urban Land & Infrastructure Ltd.* had not obtained various permissions and NOC. Moreover, the amount paid by the Complainant was not returned. Hence, it was claimed that they had committed the offence under Section 409/420/34 IPC and sought registration of FIR.

8. The learned *Metropolitan Magistrate* in the impugned Order dated 16.12.2021, observed that the investigations were required for ascertaining whether any cognizable offence is made out or not. Consequently, the FIR was directed to be registered under appropriate Sections of law and to commence the investigation to examine the veracity or otherwise of the



allegations made in the Complaint and to file the final report, in terms of Section 173(2) CrPC.

9. *Aggrieved by this Order of the learned Metropolitan Magistrate dated 16.12.2021*, the Petitioners have filed the *present Writ Petition* challenging the Order directing registration of FIR. It is submitted that only 27.1% of the agreed sale consideration was paid by the Respondent Nos.2 and 3, towards the purchase of the apartment and 72.9% of the cost still remained to be paid. The Respondent Nos. 2 and 3 were themselves defaulters. Petitioner No. 1 claimed that he had obtained all necessary license and Approvals in respect of the construction and occupation of the Project. It received sanctioned Building Plans in July, 2012 and thereafter, initiated excavation at the Project Site during May 2012.

10. Despite the Tower wherein the Apartment was allotted being complete and OC obtained, the Respondent Nos. 2 and 3 have refused to take the possession. *It is submitted that it was essentially a dispute about the delay in construction of the apartment and thus purely a civil dispute.*

11. The Respondent Nos. 2 and 3 filed a Petition for refund of the amount paid to the Petitioner No. 1, before the *National Consumer Dispute Redressal Commission* on 26.09.2017 which was allowed *vide* Judgment dated 23.03.2023. In compliance of the Judgment, *the Petitioner Company M/s Pioneer Urban Land & Infrastructure Ltd. has already refunded an amount of total amount of Rs.2,75,12,277 (Rs.1,48,94,040/- along with the interest @9% and cost of Rs.25,000/-) after deduction of TDS.*



12. From the above facts, it is evident that the Respondent Nos. 2 and 3 had given the colour of criminality to the civil dispute and therefore, the impugned FIR ought to be quashed.

13. Reliance has been placed on *Usha Chakraborty vs. State of West Bengal & Anr.*, 2023 SCC Online SC 90 and *Mitesh Kumar J Sha vs. State of Karnataka*, 2021 SCC OnLine SC 976.

14. It has been further explained that the Investigating Officer had incorrectly reported in his *Status Report* that very little progress had been made in the Project till 2016. Rather by 2015, the building structure in respect of Tower D had already been completed. The Occupation Certificate was received on 17.05.2022 and thereafter, possession had been granted over to the allottees on their payment of outstanding dues. 98.12% of possession of the flat has already been given in Tower-D and occupancy is 85.71%. It is asserted that due approvals for the Project had been obtained from time to time and the allegations made in the Status Report, are incorrect.

15. It is asserted by the Petitioners that the Complainants have wrongly alleged that the Petitioners were enjoying the money without disclosing that the entire amount along with the interest, stands paid to the Respondent Nos. 2 and 3.

16. In the end, it is contended that there are no specific averments in the Complaint against the Petitioner Nos. 3 to 8, who cannot be made vicariously liable. The FIR against the Petitioner Nos. 3 to 8 is, therefore, liable to be quashed.



17. Reliance has been placed on *Sunil Bharti Mittal vs. CBI*, (2015) 4 SCC 609; *Maksud Saiyed vs. State of Gujrat & Ors.*, 2008(5) SCC 668 and *Thermax Ltd. and Ors. vs. K.M. Johny & Ors.*, 2012 CriLJ 438.

18. **Submissions heard and the record perused.**

19. In the pre-launch of Project Arya to be constructed in Sector-62, Golf Course Extension Road, Gurugram, Haryana, the Respondent Nos. 2 and 3 took a booking and in all paid Rs.1,48,94,040/- i.e. **20.34%** of the total consideration. Since they were not happy with the progress of the Project and there was an inordinate delay in handing over of the possession which had been promised to be delivered within 39 months, the Respondent No. 2 and 3 filed a Complaint bearing CC No.2895/2017 before the NCDRC, which has been ultimately decided in their favour *vide* Judgement dated 23.03.2023. In compliance with the Judgment, a sum of Rs.2,75,12,277/-, which includes the interest component @9% p.a. on the principal amount, has already been received by the Respondent Nos. 2 and 3.

20. It is evident that the Respondent Nos. 2 and 3 had themselves voluntarily booked a flat in a *pre-launch of Arya Project* and were well aware and conscious of the details of the Project at the time they entered into Builder Buyer Agreement. For them to claim that the Petitioners had no requisite Sanctions and Permissions, is blatantly incorrect. The Project has been completed and 98% of flats in Tower-D, has already been delivered to the allottees.

21. It is evident from the averments made in the Complaint that the only grievance of the Respondent Nos. 2 and 3 was *that there was a delay in completion of Project for which they already stand compensated*, in terms of



the Judgment dated 23.03.2023 of NCDRC, pursuant to which even the compensation has been received by them. The Complainants took a conscious decision to seek refund, rather than wait for the allotment of the Apartment.

22. It has to be thus concluded that the Complaint merely disclosed a *civil dispute in regard to the delay in completion of Project and did not disclose commission of any cognizable offence.*

23. Learned Metropolitan Magistrate in his Order dated 16.12.2021 interestingly, instead of giving any cogent reasons while directing the registration of FIR, merely noted that the investigations be done *to ascertain if any cognizable offence was disclosed.* Even from the observations of the learned Metropolitan Magistrate, it is evident that the Complaint did not disclose any cognizable offence, but was essentially a civil dispute given a colour of criminality. Further, the Civil dispute raised before the NCDRC already stands redressed as they have already accepted the Compensation awarded to them by NCDRC.

24. There is no cognizable offence disclosed in the Complaint warranting any directions for registration of FIR. The impugned Order is set aside and the FIR No.375/2021 under Section 420/34 IPC dated 23.12.2021, registered at Police Station Safdarjung Enclave along with the emanating proceedings therefrom, are quashed.

25. The Criminal Writ Petitions are disposed of accordingly along with the pending Application(s).

(NEENA BANSAL KRISHNA)

2025:DHC:4489



JUDGE

MAY 26, 2025/RS