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

(i) + **CRL.M.C. No.1133/2013**

RAJENDRA KHATIR

..... Petitioner

Through: Mr. Harsh K. Sharma, Advocate

versus

C.B.I.

..... Respondent

Through: Mr. Narender Mann, Special
Public Prosecutor, with Mr. Manoj
Pant and Ms. Utkarsha Kohli,
Advocates for respondent-CBI

(ii) + **CRL.M.C.No. 1143/2013**

NITIN BOLIA

..... Petitioner

Through: Mr. Harsh K. Sharma, Advocate

versus

C.B.I.

..... Respondent

Through: Mr. Narender Mann, Special
Public Prosecutor, with Mr. Manoj
Pant and Ms. Utkarsha Kohli,
Advocates for respondent-CBI

(iii) + **CRL.M.C. No.1144/2013**

SIDIK HUSSAIN

..... Petitioner

Through: Mr. Harsh K. Sharma, Advocate

versus

C.B.I.

..... Respondent

Through: Mr. Narender Mann, Special
Public Prosecutor, with Mr. Manoj

Crl.M.C.No. 1133/2013
Crl.M.C.No. 1143/2013
Crl.M.C.No. 1144/2013

(17)

Pant and Ms. Utkarsha Kohli,
Advocates for respondent-CBI

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
26.08.2015

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Crl.M.A.No. 12333/2015 in CRL.M.C. No.1133/2013
Crl.M.A.No. 12258/2015 in Crl.M.C.No. 1143/2013
Crl.M.A.No. 12265/2015 in CRL.M.C. No.1144/2013

Applications are allowed for the reasons stated therein and accompanying petitions are restored to their original position.

Applications are disposed of.

CRL.M.C. No.1133/2013 & Crl.M.A.No. 3472/2013(for stay)
Crl.M.C.No. 1143/2013 & Crl.M.A.No.3514/2013 (for stay)
CRL.M.C. No.1144/2013 & Crl.M.A.No.3516/2013 (for stay)

In the above captioned three petitions, quashing of impugned orders of 11th December, 2012 and 15th February, 2013 and RC No.217/2011/(A)0006/CBI/ACU-IV, New Delhi and proceedings emanating there-from is sought on merits.

Learned Additional Public Prosecutor for respondent-CBI submits that these petitions arise out of one RC and therefore, these petitions be heard together.

In view of aforesaid, the above captioned three petitions have been heard together and are being disposed of by this common order.

Crl.M.C.No. 1133/2013
Crl.M.C.No. 1143/2013
Crl.M.C.No. 1144/2013

(18)

At the hearing, learned counsel for petitioners submits that on a bare reading of FIR in question, no offence is made out against petitioners and it is a fit case for exercising jurisdiction under Section 482 of Cr.P.C by this Court.

Learned Additional Public Prosecutor for respondent-CBI further submits on instructions that the case is now at the fag end before the trial court.

After hearing both the sides and on perusal of the impugned orders and material on record, this Court finds that extra ordinary inherent jurisdiction under Section 482 of Cr.P.C. is to be exercised with circumspection and sparingly. On this aspect, the pertinent observations of the Apex Court in *State of Orissa v. Ujjal Kumar Burdhan* (2012) 4 SCC 547 are as under: -

"It is true that the inherent powers vested in the High Court under Section 482 of the Code are very wide. Nevertheless, inherent powers do not confer arbitrary jurisdiction on the High Court to act according to whims or caprice. This extraordinary power has to be exercised sparingly with circumspection and as far as possible, for extraordinary cases, where allegations in the complaint or the first information report, taken on its face value and accepted in their entirety do not constitute the offence alleged. It needs little emphasis that unless a case of gross abuse of power is made out against those in charge of investigation, the High Court should be loath to interfere."

The pertinent observations of Apex Court in *Padal Venkata Rama Reddy Alias Ramu v. Kovvuri Satyanarayana Reddy & Ors.* (2011) 12 SCC 437 on the feasibility of efficacious remedy being available are as

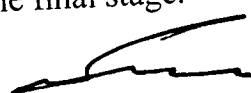
(19)

under: -

"It is well settled that the inherent powers under Section 482 can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. It cannot be used if it is inconsistent with specific provisions provided under the Code (vide Kavita v. State and B.S.Joshi v. State of Haryana). If an effective alternative remedy is available, the High Court will not exercise its powers under this section, specifically when the applicant may not have availed of that remedy."

Applying the afore-noted dictum of the Apex Court to the facts of instant case, this Court is of the considered opinion that petitioners have an alternate and efficacious remedy to urge the pleas taken herein before the trial court at this advanced stage i.e. final stage and so, this Court refrains from exercising its extra ordinary inherent jurisdiction under Section 482 of Cr.P.C. to quash the proceedings arising out of RC No.217/ 2011/(A)0006/CBI/ACU-IV, New Delhi *dehors* the evidence recorded.

Consequently, the above captioned three petitions and applications are disposed of without considering the merits of the case while leaving it open for the trial court to consider it at the final stage.


(SUNIL GAUR)
JUDGE

AUGUST 26, 2015

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Crl.M.C.No. 1133/2013
Crl.M.C.No. 1143/2013
Crl.M.C.No. 1144/2013