

\$~45 & 46

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

Date of Decision: February 19, 2015

+ (i) **CRL.M.C. 1750/2014 & CrI.M.A.5856/2014**

ARCHNA MALHOTRA Petitioner

Through: Mr. Anish Dhingra, Advocate

versus

STATE & ORS.Respondents

Through: Mr. Parvin Bhati, learned
Additional Public Prosecutor for
respondent-State with Inspector
Rajender Ahlawat
Mr. Sudarshan Rajan, Advocate for
respondent No.2

+ (ii) **CRL.M.C. 1988/2014 & CrI.M.A.6677/2014**

KARAN MALHOTRA Petitioner

Through: Mr. Anish Dhingra, Advocate

versus

STATE & ORS.Respondents

Through: Mr. Parvin Bhati, learned
Additional Public Prosecutor for
respondent-State with Inspector
Rajender Ahlawat
Mr. Sudarshan Rajan, Advocate for
respondent No.2

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

%

JUDGMENT
(ORAL)

In the above captioned two petitions, quashing of FIR No.90/2011 under Sections 406/420/34 of IPC registered at P.S. Karol Bagh, Delhi and the charge-sheet filed in this FIR case is sought on merits.

Upon notice, learned Additional Public Prosecutor for respondent-State informs that the supplementary charge-sheet has been filed and the FSL report has been received, which will be filed before trial court before the next date of hearing i.e. 21st February, 2015.

Since petitioners have an alternative and efficacious remedy to urge the pleas taken herein before the trial court at the stage of hearing on the point of charge, therefore, these petitions are not being entertained by exercising the inherent jurisdiction under Section 482 of Cr.P.C.

Such a course is being adopted in view of dictum of Apex Court in *Padal Venkata Rama Reddy Alias Ramu v. Kovvuri Satyanarayana Reddy & Ors. (2011) 12 SCC 437*, which is as 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 dictum of the Apex Court in *Padal Venkata Rama Reddy (supra)* to the facts of the instant cases, these petitions are disposed

of with liberty to petitioners to urge the pleas taken herein before the trial court at the stage of hearing on the point of charge and if it is so done, then trial court shall deal with the pleas raised herein by passing a speaking order. If the trial court finds that no case is made out against petitioners, then this order will not stand in the way of trial court to discharge petitioners. Needless to say, if trial court chooses to frame charges against petitioners, then petitioners shall be at liberty to avail of the remedy as available in law, if so advised.

The above captioned two petitions and the applications are accordingly disposed of while refraining to comment upon merits, lest it may prejudice petitioner before trial court.

Copy of this order be given dasti under signatures of Court Master.

(SUNIL GAUR)
JUDGE

FEBRUARY 19, 2015

s