

\$~80

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

Date of Decision: February 18, 2015

+ **CRL.M.C. 599/2015 & CrI.M.As. 2333-34/2015**

DEVENDER MALHOTRA Petitioner
Through: Mr. Anish Dhingra and Mr. Parth
Mullik, Advocates
versus

THE STATE OF NCT OF DELHI Respondent
Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

%

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 in this petition.

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 and the next date of hearing before trial Court is 21st February, 2015.

Since petitioner has 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, this petition is 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 case, this petition is disposed of with liberty to petitioner 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 petitioner, then this order will not stand in the way of trial court to discharge petitioner. Needless to say, if trial court chooses to frame charges against petitioner, then petitioner shall be at liberty to avail of the remedy as available in law, if so advised.

This petition and the applications are accordingly disposed of while refraining to comment upon merits, lest it may prejudice petitioner before trial court.

**(SUNIL GAUR)
JUDGE**

FEBRUARY 18, 2015

S