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

Date of Decision: March 10, 2015

+ CRL.M.C. 939/2015 & Crl. M.A.Nos.3525-26/2015

SHIKHA MAKKAR & ANR. Petitioners

Through: Mr. Vipin Sanduja & Mr. Deepak
Kumar Gupta, Advocates

versus

STATE (GOVT OF NCT OF DELHI) & ANR. Respondents

Through: Mr. Parvin Bhati, Additional
Public Prosecutor for respondent-
State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In this petition, quashing of FIR No. 336/2014, under Sections 420/406/506/120-B/34 of the IPC, registered at police station Model Town, Delhi is sought primarily on merits.

At the hearing, it was submitted by learned counsel for petitioners that the Compromise Deed of 29th September, 2014 has not been acted upon by the second respondent.

Upon Notice, Mr. Parvin Bhati, learned Additional Public Prosecutor for respondent-State submits that the investigation of this case

is complete and as to which portion of the property in question is unauthorized would be investigated into and thereafter, within a period of four weeks, final report in this FIR case would be filed before the trial court.

Since quashing of the FIR in question is primarily sought on merits, therefore, it is deemed appropriate to relegate petitioners to avail of the alternate remedy to urge the pleas taken herein before the trial court at the stage of hearing on the point of Charge. Such a view is being taken in view of pertinent observations of the Apex Court in *Padal Venkata Rama Reddy Alias Ramu v. Kovvuri Satyanarayana Reddy & Ors. (2011) 12 SCC 437*, which are as under: -

"13. 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 above-cited decision of Apex Court to the facts of this case, this Court finds that since petitioners have an alternate and efficacious remedy available, therefore, this petition and application are disposed of with liberty to petitioners to raise the pleas taken herein before the trial court at the stage of hearing on the point of charge, which shall be dealt with by the trial court by passing a reasoned order.

Needless to say that this Court has not considered the case of the parties on merits and it is left open for the trial court to do so.

(SUNIL GAUR)
JUDGE

MARCH 10, 2015
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