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

Date of Decision: July 16, 2015

+ **CRL.M.C. 1588/2012**

VIKAS KUMAR SINGH Petitioner
Through: Mr. P.S. Bindra, Advocate

versus

STATE Respondent
Through: Mr. Parveen Bhati, Additional
Public Prosecutor for respondent-
State with SI Rajiv Kumar

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Quashing of FIR No.129/11 under Sections 420/468/471/120-B IPC registered at PS Maurice Nagar, Delhi is sought of this petition on the ground that except the disclosure statement of co-accused, there is no material with the prosecution to proceed against petitioner as an accused, as the call records (*Annexure P-6*) clearly indicate that no calls were made from the mobile of petitioner to the complainant and that petitioner is residing at the address as already given in this petition.

Learned Additional Public Prosecutor for respondent-State submits that the FSL report is still awaited. Let it be obtained on priority.

Learned Additional Public Prosecutor for respondent-State further submits that petitioner is absconding and has been declared as a

proclaimed offender and the matter is coming up before the trial court on 10th August 2015 for hearing on the point of charge.

At this stage, learned counsel for the petitioner submits that petitioner is not aware about the filing of the charge-sheet and he was never served with any notice by the Investigating Officer or from the trial court and that it is a fit case for quashing of FIR in question *qua* petitioner.

Since petitioner has an alternate and efficacious remedy to urge the pleas taken herein, in particular reference to the call records, before the trial court, this Court is not inclined to exercise its extraordinary jurisdiction under Section 482 Cr. P.C. to quash the FIR in question. Such a course is adopted in view of pertinent observation 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 aforesaid dictum of the Apex Court in *Padal Venkata Rama Reddy (supra)* to the facts of the instant case, this petition is disposed of with a direction to the trial court to take into

consideration the call records (*Annexure P-6*) and thereafter, to decide whether petitioner needs to be put on trial or not.

In the facts and circumstances of this case, to enable petitioner to put his arguable case before the trial court, it is directed that the order declaring petitioner a proclaimed offender be kept in abeyance till the arguments on charge are concluded. Liberty is granted to petitioner to seek recalling of P.O. order before trial court.

The petition is accordingly disposed of while refraining to comment upon merits of the case.

(SUNIL GAUR)
JUDGE

JULY 16, 2015

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