

I-11

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

Date of Decision: August 31, 2015

+ CRL.M.C. 3456/2013 & Crl.M.A.No.12661/2013

S C AGGARWAL Petitioner

Through: Ms. Shantha Devi Raman,
Advocate

versus

GEETA FLEXO GREVURE LTD. & ORS.Respondents

Through: Mr. Amar Khera & Mr. Pulkit
Narang, Advocates for respondent
No.2
Mr. Nikhil Singla, Advocate for
respondent No.3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

%

Quashing of criminal complaint No.3280/1/2006, *M/S Geeta Flexo Grevure Ltd. & ors. Vs. S.C.Aggarwal*, wherein petitioner has been summoned for offences under Sections 409/467/468/471 of IPC, is sought in this petition on merits.

At the hearing, learned counsel for petitioner relies upon Apex Court's decisions in *M/S GHCL Employees Stock Option Trust Vs. M/S India Infoline Ltd.* AIR 2003 SC 1433; *Maksud Saiyed Vs. State of Gujarat & ors.* (2008) 5 SCC 668; *M/S Thermax Ltd. & ors. Vs. K.M. Johny & ors.* 2011 (11) SCALE 128 and decision of 30th September, 2011

of a Coordinate Bench of this Court in Crl.M.C.1659/2010 S.V. *Arumugam Vs. State & ors.* to submit that *prima facie* case for summoning petitioner for the offences in question is not made out and so, complaint as well as impugned summoning order of 5th February, 2013 deserve to be quashed.

During the course of hearing, this Court was informed that recording of pre-charge evidence is in progress.

Upon hearing and on perusal of the complaint in question, summoning order, material on record and decisions cited, I find that the pleas taken in this petition, on the basis of which quashing of complaint and summoning order is sought, are factual ones which are required to be tested during the course of recording of pre-charge evidence.

Since petitioner has an effective remedy to get the pleas taken herein tested during the course of recording of pre-charge evidence, therefore, this Court is not inclined to entertain this petition at this stage in view of pertinent observations of Apex Court in *Padal Venkata Rama Reddy Alias Ramu v. Kovvuri Satyanarayana Reddy & Ors.* (2011) 12 SCC 437, which are 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 afore-noted dictum of the Apex Court in *Padal Venkata Rama Reddy (supra)* to facts of the instant case, this petition and application are 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. It is made clear that this Court has not considered the merits of this case and it is left open for the trial court to do so after considering the pleas raised by petitioners in this petition.

(SUNIL GAUR)
JUDGE

August 31, 2015

r