

\$~14

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

+ W.P.(CRL) 1032/2013

NARAYAN KUMAR Petitioner
Through Mr.S.K.Duggal, Advocate.

versus

STATE Respondent
Through Mr. Rahul Mehra, Standing
Counsel with Mr.Jamal Akhtar
and Mr.Amrit Sen, Advocate
for State.
Ms.Zeba Kumar, Advocate for
respondent No.2.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER
03.07.2015

%

1. The petitioner seeks quashing of the two FIRs, one lodged by the police namely FIR No.228/2013 dated 1.6.2013 instituted under Sections 427/447/448 and 34 of the IPC; and the other lodged by respondent No.2 namely FIR No.243/2013 dated 9.6.2013 registered under Sections 448/34 IPC of the IPC. Both the FIRs have been lodged in the Ambedkar Nagar police station.
2. The allegation in the FIR No.228/2013, lodged by the police is that despite the knowledge of a proceeding pending before the Magistrate under Section 145 of Code of Criminal Procedure, the petitioner (accused) was making arrangements for repairing the

property, the subject matter of the 145 proceeding. It was also alleged that when the petitioner was prevented from carrying out the repair works, he indulged in arson and created difficulties for the police.

3. The other FIR namely FIR No.243/213, lodged by the respondent No.2 is with respect to the allegation that despite the respondent being in possession of the relevant papers regarding the title and possession of the property, the petitioner accused did not restrain himself from getting the renovation work done. It has been alleged that the petitioner along with his wife and 3-4 unknown labourers came to the spot. When confronted, the petitioner (accused) became aggressive and dared anybody to stop him from carrying on the construction work.

4. The petitioner seeks quashing of the two FIRs on the grounds that the substratum of the allegation in both the FIRs which were filed during a short interval of a week are same and similar and that even if the allegations are accepted to be ex facie true, no offence would be made out under any of the sections of the Indian Penal Code, much less the offences which have been lodged in the first information report.

5. Learned counsel appearing for the petitioner submits that there was no restraining order by any court of competent jurisdiction. The claim of the petitioner with respect to the peaceful possession of the property was never disturbed. In such an eventuality, if the petitioner tried to have his house repaired, it would not entail any criminal liability.

6. Mr.Mehra, learned standing counsel informs the Court that chargesheets in both the FIRs have been submitted. Pursuant to the filing of the chargesheets, charges have been framed against the petitioner by the competent Courts. He submits that the petitioner could pursue his remedies which are available to him under the Code of Criminal Procedure. He further submits that once the investigation in the FIR is completed, the police becomes functus officio.
7. The grounds raised by the petitioner in the present petition could have been gone into if the investigation would not have reached its logical conclusion/finality.
8. No purpose would be served in quashing the first information reports referred to in the petition.
9. Considering this aspect of the matter, the petition is rejected.
10. The Petition stands disposed of.

ASHUTOSH KUMAR, J

JULY 03, 2015

k