

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

Date of Decision: January 22, 2015

+ CRL.M.C. 2969/2014 & Crl. M.A.No.10295/2014

SABBU SHAH

..... Petitioner

Through: Ms. Rebecca John, Senior
Advocate with Mr. Kapil Arora &
Mr. Mohi Auluck, Advocates

versus

STATE

..... Respondent

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of FIR No. 41/2008, under Sections 364A/506/419/34 of the IPC, registered at police station Crimes & Railways, New Delhi and charge sheet filed in this case, is sought in this petition on merits.

It is submitted that now the matter is coming up on 23rd January, 2015 before the trial court for hearing on the point of framing of charge.

Since the petitioner has an alternate and efficacious remedy to urge the pleas taken herein before the trial court at the stage of hearing on the point of charge, this Court is not inclined to invoke its extra inherent jurisdiction under Section 482 of the Cr.P.C. to quash the proceedings arising out of FIR in question.

On this aspect, pertinent observations of the Apex Court in *Padal Venkata Rama Reddy Alias Ramu v. Kovvuri Satyanarayana Reddy & Ors.* (2011) 12 SCC 437, 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 petition and application are disposed of with liberty to petitioner to raise the pleas taken herein before the trial court at the stage of hearing on the point of charge.

Learned senior counsel for petitioner submits that petitioner shall be moving an application before the trial court seeking discharge in this petition and she would be satisfied if trial court deals with the pleas urged by him and a speaking order is passed by the trial court.

Needless to say that this Court has not considered the case of petitioner on merits and petitioner is at liberty to urge the pleas taken herein before the trial court, who shall pass a speaking order and if petitioner has any grievance, he can avail of the remedy as available in

the law.

This petition and the application stand disposed of accordingly.

(SUNIL GAUR)
JUDGE

JANUARY 22, 2015

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