

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

Date of Decision: January 22, 2015

+ **CRL.M.C. 3232/2014 & Crl. M.A.No.11213/2014**
NIZAMUDDIN Petitioner
Through: Mr. R.K Sharma, Advocate

versus

NADEEM AHMED & ANR. Respondents
Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent
No.2-State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

Petitioner is an accused in Criminal Complaint No.4419/1/2010 wherein he has been summoned for facing the proceedings for the offences of cheating, forgery, etc.

Petitioner's application for dropping of the proceedings is dismissed by trial court by a speaking order of 10th January, 2013, which stands affirmed by the revisional court vide impugned order of 3rd May, 2014.

At the hearing, learned counsel for petitioner submits that a person cannot be vexed for the same offence and dismissal of first respondent's application under Section 156 (3) of the Cr.P.C. has been already maintained by this Court vide order of 31st July, 2009 (*Annexure-G*).

Reliance is placed upon a short note in *Abrar Ali Vs CISF & Ors.*

214 (2014) DLT 16 (DB) (CN) to submit that a person must not be put in peril twice for same offence. Lastly, it was submitted that the impugned order violates Article 20 (2) of the *Constitution of India* as it subjects petitioner to double jeopardy.

Upon hearing and on perusal of the impugned order and the material on record, I find that on the subject matter of the complaint, respondent's application under Section 156 (3) of Cr.P.C. already stands dismissed and the said order has attained finality. It is so evident from the order of 31st July, 2009 (*Annexure-G*) passed by a co-ordinate Bench of this Court. The pertinent observations made in the aforesaid order of 31st July, 2009 are as under: -

“Taking into consideration the controversy which is going on between the parties and which has resulted in lodging of number of complaints, I find no ground to direct the police to register an FIR in this case that too after 20 years of the incident, but I find it appropriate that if the petitioner is still aggrieved he can always file a complaint under Section 200 Cr.P.C.”

In the face of the afore-noted order, petitioner cannot be heard to say that he cannot be vexed twice for the same offence and in the considered opinion of this Court, the decision relied upon has no application to the facts of the instant case. Principle of double jeopardy cannot be invoked in the instant case as petitioner is not being tried for the same offence twice. The rejection of petitioner's application by the courts below does not suffer from any palpable error.

There is no substance in this petition. Accordingly, this petition and the application are dismissed.

(SUNIL GAUR)
JUDGE

JANUARY 22, 2015
s/r