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

*Date of Decision: August 25, 2015*

+ **CRL.M.C. 3525/2014**

G.S. GILL .....Petitioner  
Through: Mr. Dayan Krishnan, Senior  
Advocate, with Mr. Sanjay Abbot  
and Mr. Ankit Agarwal, Advocates  
versus

STATE & ANR. .... Respondents  
Through: Mr. Vinod Diwakar, Additional  
Public Prosecutor for respondent-  
State  
Mr. Rishabh Bansal, Advocate for  
respondent No.2

**CORAM:  
HON'BLE MR. JUSTICE SUNIL GAUR**

% **JUDGMENT  
(ORAL)**

In a criminal complaint of cheating, forgery, etc., petitioner, who is erstwhile tenant of respondent-complainant, has been summoned as accused for the offence under Sections 468/471 of IPC vide impugned order of 5<sup>th</sup> October, 2012, which has been affirmed by the revisional court vide impugned order of 23<sup>rd</sup> May, 2014.

At the hearing, learned senior counsel for petitioner assails the impugned order on various grounds while touching upon the merits of this case and submits that the impugned order proceeds on assumption

that charge for the offence of cheating and forgery has been already framed whereas the case is at the stage of recording of pre-charge evidence and respondent-complainant is yet to be cross-examined *qua* the stand taken by respondent-complainant and the matter in the civil suit, already stood compromised.

It is pointed out that the controversy revolves around the rent receipt being forged to the extent of another property number being added in the rent receipt whereas the original agreement between the parties is in respect of both the portions i.e. property No.49 and property No.51, which is infact a composite property.

Upon hearing and on perusal of the impugned order and the material on record, I find that petitioner has an alternate and efficacious remedy to urge the pleas taken herein before the trial court at the charge stage and so, this Court is not required to exercise its extraordinary inherent powers under Section 482 of Cr.P.C. to pre-judge the pleas taken in this petition because a clearer picture would emerge if the stand of petitioner is put to respondent-complainant in cross-examination.

Such a course is being adopted in view of dictum 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 afore-noted dictum of the Apex Court in *Padal Venkata Rama Reddy (supra)* to facts of the instant case, this petition is disposed of while not commenting upon the pleas raised in this petition and it is left for the trial court to do so at the charge stage. It is made clear that the trial court shall decide whether to frame charge or not uninfluenced by the impugned order and strictly on merits while dealing with the pleas taken by petitioner herein.

In this facts and circumstances of this case, purely as an interim measure, till the arguments on charge are concluded, personal appearance of petitioner be not insisted upon by the trial court upon petitioner filing an application under Section 205 of Cr.P.C. alongwith his affidavit with the following undertaking: -

- a. that the proceedings of the case shall be regularly conducted by counsel (whose name shall be disclosed in application), who shall appear on behalf of petitioner on every hearing and will not seek adjournment;*
- b. that petitioner shall not dispute his identity as accused in the case;*
- c. that the petitioner shall appear in person as and when directed in future to do so; and*
- d. that petitioner shall not raise the question of prejudice in future.*

It is made clear that if petitioner delays the proceedings before the trial court, then petitioner will not have the benefit of exemption from

personal appearance extended by this Court.

This petition is accordingly disposed of in aforesaid terms while clarifying that in the event of petitioner being put on trial, petitioner shall have the remedies as available to him in law.

**(SUNIL GAUR)**  
**JUDGE**

**AUGUST 25, 2015**

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