

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

Date of Decision: March 23, 2015

+ CRL.M.C. 1143/2015 & Crl. M.A.Nos.4232-33-34/2015

S K MITTAL

..... Petitioner

Through: Mr. Arjun Dewan, Advocate

versus

CBI

..... Respondent

Through: Mr. Narender Mann, Special
Public Prosecutor for CBI &
Mr. Manoj Pant & Mr. Utkarsh
Kohli, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of RC No. 6[A]/91-DLI, under Sections 7 & 13 (2) of *The Prevention of Corruption Act, 1988*, and proceedings emanating therefrom is sought in this petition.

Learned counsel for petitioner submits that no case is made out against the petitioner and relies upon decision in *Bibhudhendu Prasad Mohanty Vs. State of Orissa (vigilance)* 2013 (II) OLR 589.

Notice.

Mr. Narender Mann, learned Special Public Prosecutor for respondent-CBI accepts notice and submits that charge sheet in this case has been already filed and this matter is now coming up on 24th March, 2015 before the trial court for hearing on the point of framing of charge

and that 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.

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 Court finds that since petitioner has an alternate and efficacious remedy available, therefore, this petition and applications 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.

Needless to say that this Court has not considered the case of the parties on merits and it is left open for the trial court to do so.

(SUNIL GAUR)
JUDGE

MARCH 23, 2015

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