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

Date of Decision: July 15, 2015

(i) + **CRL.M.C. 4799/2013**

GULSHAN KUMAR ARORA Petitioner
Through: Ms. Ravindra Narayan and Mohd.
Zafar, Advocates
versus

NCT OF DELHI & ANR.Respondents
Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State

(ii) + **CRL.M.C. 4804/2013**

GULSHAN KUMAR ARORA & ANR. Petitioners
Through: Ms. Ravindra Narayan and Mohd.
Zafar, Advocates
versus

NCT OF DELHI & ORS.Respondents
Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State with SI Jeet Singh
Mr. Prashant Pathak, Advocate for
respondent No.3

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
(ORAL)

In the above-captioned first petition, quashing of FIR No.93/2008 under Sections 420/467/468/471 of IPC registered at P.S. Tilak Nagar, Delhi and in the above-captioned second petition, quashing of FIR

No.120/2012 under Sections 420/468/471/34 of IPC registered at police station Kotla Mubarakpur, Delhi is sought on merits.

Since quashing of aforesaid two FIRs is sought on identical grounds, therefore, both these petitions were heard together and by this common order, they are being disposed of.

At the hearing, it was submitted by learned counsel for petitioners that in FIRNo.93/2008, charge-sheet has been filed but on petitioners' application, further investigation has been ordered by the trial court. It was further submitted by learned counsel for petitioners that there is inordinate delay in filing of the FIRs in question and the dispute, which is the subject matter of these two FIRs, is purely of civil nature and the civil suit for specific performance is already pending and so, no case for continuance of proceedings arising out of the FIRs in question is made out.

It was submitted by learned Additional Public Prosecutor for respondent-State that the investigation of the aforesaid two FIRs would be completed after the FSL report is received.

Let it be obtained on priority and thereafter, final report be promptly filed before trial court.

Since petitioners have an alternate and efficacious remedy to seek discharge from trial court by urging the pleas taken herein, therefore, this Court is not inclined to exercise its inherent jurisdiction under Section 482 of Cr.P.C.

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 dictum of the Apex Court in *Padal Venkata Rama Reddy (supra)* to the facts of instant case, the above-captioned two petitions are disposed of with liberty to petitioners to urge the pleas taken herein before the trial court at the stage of hearing on the point of charge and if it is so done, then trial court shall deal with the pleas raised herein by passing a speaking order. If the trial court finds that no case is made out against petitioners, then this order will not stand in the way of trial court to discharge petitioners. Needless to say, if trial court chooses to frame charges against petitioners, then petitioners shall be at liberty to avail of the remedy as available in law to them, if so advised.

The above-captioned two petitions are accordingly disposed of while refraining to comment upon merits, lest it may prejudice petitioners before trial court.

(SUNIL GAUR)
JUDGE

JULY 15, 2015

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