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

Date of Decision: 21st April, 2015

+ **CRL.M.C. 1588/2015 & Crl.M.A.Nos.5817-18/2015**

SADHU RAMESH BABU Petitioner

Through: Mr. V. Sridhar Reddy, Advocate

versus

STATE, GOVERNMENT OF NCT OF DELHI

& ANR

.... Respondents

Through: Mr.Vinod Diwakar, Additional Public
Prosecutor for respondent-State with
SI Rajpal PS Tilak Nagar

+ **CRL.M.C. 1594/2015 & Crl.M.A.Nos.5827-28/2015**

D. SARATH KUMAR Petitioner

Through: Mr. V.Sridhar Reddy, Advocate

versus

STATE , GOVERNMENT OF NCT OF DELHI

& ANR

..... Respondents

Through: Mr.Vinod Diwakar, Additional Public
Prosecutor for respondent-State with
SI Rajpal, PS Tilak Nagar

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

J U D G M E N T

% **(O R A L)**

In the above-captioned two petitions, quashing of FIR

No.1077/2014 under Section 420/467/120B/34 IPC registered at Police Station Tilak Nagar, Delhi is sought on merits.

Since subject matter of these two petitions is one FIR, whose quashing is sought on identical grounds, therefore, both these petitions were heard together and are being disposed of by this common judgment.

At the hearing learned counsel for petitioners submitted that registration of FIR in question is an abuse of process of the Court as the subject matter of this FIR is dishonour of cheques regarding which, complaint under Section 138 of *Negotiable Instruments Act, 1881* was filed before the Delhi Courts and a Coordinate Bench of this Court vide judgment of 19th December, 2014 (*Annexure P-6*) has directed the return of the complaint, to be filed before the court having territorial jurisdiction. Learned counsel for petitioner had placed reliance upon Apex Court's decision in *Poonam Chand Jain & Anr. V. Fazru* (2010) 2 SCC 631 to submit that second complaint on same facts is not maintainable and so registration of FIR regarding dishonour of cheque is clearly not maintainable and so FIR in question deserves to be quashed.

Upon hearing and on perusal of FIR in this case and material on record, I find that this FIR does not solely relate to the dishonour of cheques and pertains to allegations of cheating. There are allegations of forgery and deception as well in this FIR regarding the Agreement of 12th May, 2012 (*Annexure P-1*). No doubt Memorandum of Understanding of 13th March, 2014 (*Annexure P-2*) has been executed in respect of dishonour of cheques but the FIR in question does not

pertain to dishonour of cheques only. The alleged forgery and deception is said to have been done within the territorial jurisdiction of Delhi Courts. Therefore, return of complaint under Section 138 of *Negotiable Instruments Act, 1881* to the court of competent territorial jurisdiction does not bar the initiation of criminal prosecution by registration of FIR in question.

In the considered opinion of this Court, there is no justification to quash the FIR in question as the decision relied upon has no application to the facts of the instant case.

Accordingly, both petitions and the applications are dismissed.

(SUNIL GAUR)
Judge

APRIL 21, 2015
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