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

Date of decision: 23rd September, 2015

+ W.P.(CRL) 2053/2014 and Crl. MA Nos. 14102-14103/2015

KULDEEP KUMAR

..... Petitioner

Through

Mr. Salim A. Inamdar, Advocate

versus

STATE OF DELHI & ANR

..... Respondents

Through

Ms. Kamna Vohra, ASC (Crl.)

SI Prateek Saxena, P.S. Anand Vihar

Mr. R.K. Yadav, Adv. for R-2

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 praying as follows:-

“a. Direct that FIR No. 576 of 2014 PS Anand Vihar dated 13.09.2014 u/s 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and all proceedings emanating therefrom be quashed;

b. Formulate guidelines in respect of arrest, detention and remand to custody in cases of offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989;

c. Direct that no coercive action be taken qua the petitioner during the pendency of the present petition; and

d. Pass such further orders and directions as may be deemed just and necessary in the facts and circumstances of the case.”

2. Ms. Kamna Vohra, learned Additional Standing Counsel (Criminal) appearing on behalf of the official respondent states that an order on charge dated 3rd September, 2015 has already been passed. Learned ASC (Crl.) further states that the petitioner has an equally efficacious remedy against the said order on charge dated 3rd September, 2015.

3. Mr. Salim A. Inamdar, learned counsel appearing on behalf of the petitioner states that the subject charge-sheet was vitiated by *mala fides* inasmuch as the complainant belongs to a rival trade union in the same Corporation. Mr. Inamdar would then urge that the complainant has instituted proceedings under the said Act against numerous individuals working in the same organization. Mr. Inamdar would also urge that the documents annexed to the present petition clearly demonstrate that the charges are manifestly motivated and false. Mr. Inamdar would lastly urge that the subject FIR was registered belatedly a year after the alleged commission of the offence under the said Act.

4. In the present case, it is observed that the order on charge in the subject FIR has already been rendered. The present petition was instituted praying for quashing of the subject FIR. The subject FIR has now culminated into an order on charge against the petitioner.

5. It is an admitted position that the present petition does not challenge or assail the order on charge.

6. Insofar as the contentions urged on behalf of the petitioner are concerned, it would be relevant to consider the judicial precedents on the issue.

7. In the decision of *Som Mittal vs. Government of Karnataka* reported as (2008) 3 SCC 574, a three Judge Bench of the Hon'ble Supreme Court observed that quashing of an FIR ought to be done only in the rarest of rare cases, sparingly and with circumspection. The Court further observed that while rendering judgments, the Court should only deal with the subject matter of the case and issues involved therein and desist from issuing directions affecting executive or legislative policy or general directions unconnected with the subject matter of the case.

8. In the unreported decision of this Court in *Criminal Revision Petition No. 281/2012* titled *Veena Ajmani vs. State and Ors., decided on 20th April, 2015*, this Court, following the decision of the Supreme Court in *P. Vijayan vs. State of Kerala and Another*, reported as (2010) 2 SCC 398, held that the consideration of the court at the stage of framing of charges is for the limited purpose of ascertaining whether or not there is sufficient ground for proceeding against the accused. Whether the material in the hands of the prosecution is sufficient or not are matters of trial. Moreover, the issue whether the trial will end in conviction or acquittal is also immaterial.

9. It is one thing to allege *mala fides* and it is entirely another to establish them based on cogent material.

10. In the present case, the allegations made in the complaint do clearly constitute a cognizable offence justifying the registration of the subject FIR.

11. The extra-ordinary inherent powers of this Court under Articles 226 and 227 of the Constitution of India do not confer an arbitrary jurisdiction on the Court to act according to its whims and caprice. The Court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint.

12. In the present case, it is observed that the allegations of *mala fides* based on political rivalry and propensity of the complainant to institute complaints against other individuals under the said Act are only bald allegations and recriminations.

13. In view of the foregoing, I do not see any force in the contentions made on behalf of the petitioner that on the basis of the material in the present petition, the complaint should be thrown overboard only on the mere unsubstantiated and unsupported plea of *mala fides*.

14. The contention of the counsel appearing on behalf of the petitioner that the charge-sheet in the subject FIR contains the CCTV footage recording the commission of the offence in the subject FIR and that viewing the same would result in an inescapable conclusion that the present case is motivated and is untenable at this stage since that is well within the exclusive domain of the trial Court.

15. The evidence and material to be placed before the trial Court on behalf of the prosecution and the defence, if any, cannot be pre-judged at this stage.

16. In view of the above, the present writ petition is dismissed.

The pending applications also stand disposed of.

SIDDHARTH MRIDUL, J

SEPTEMBER 23, 2015

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