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

+ **CRL.M.C. 3213/2015**

AMIT SHARMA

..... Petitioner

Through: Mr. Sanjeev Sahay, Advocate

versus

STATE & ORS

.... Respondents

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for State with Inspector
Ravinder Malik

+ **CRL.M.C. 3215/2015**

AMIT SHARMA

..... Petitioner

Through: Mr. Ashish Deep Verma, Advocate

versus

STATE & ORS

.... Respondents

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for State with Inspector
Ravinder Malik

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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10.08.2015

In the above captioned two petitions, quashing of impugned order dated 13th January, 2015 is sought. Vide aforesaid order, petitioner has been called upon to face trial for the offences under Section 420/120B IPC in the alternative to the main offence under Section 409/120B IPC.

Since the challenge to impugned order in the above captioned petitions is on identical grounds, therefore, these two petitions are heard together and are being disposed of by this common order.

At the hearing, learned counsel for the petitioner submits that no criminal offence is made out as the dispute, which is the subject matter of

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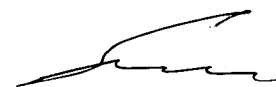
the FIR in question is purely civil one. Without admitting that the offence of cheating has been committed, it was submitted that on the same set of allegations, petitioner cannot be made to face the trial for the offences under Section 420 IPC and 409 IPC as the ingredients of these two offences are entirely different.

Upon hearing and perusal of impugned order and trial court's order, I find that at the stage of charge, only *prima facie* case has to be seen and a charge can be framed even on strong suspicion. On this aspect, the pertinent observations of the Apex Court in *Amit Kapoor* citation are as under: -

"At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at the stage."

Applying the afore noted dictum to the facts of the instant case, I find that there is no palpable error in the impugned order, which calls upon petitioner to face the trial under Section 420/120B IPC or in the alternative under Section 409/34 IPC.

Consequentially, finding no substance in these two petitions, these are dismissed.


(SUNIL GAUR)
JUDGE

AUGUST 10, 2015

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