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

Date of Decision: July 08, 2015

+ **CRL.M.C. 2670/2015 & CrI.M.As.9547-48/2015**

AJAY GUPTA Petitioner
Through: Mr. N. Hariharan, Senior
Advocate, with Mr. Amit S.
Chauhan, Mr. Siddharth S. Yadav
and Mr. Sahil Paul, Advocates

versus

STATE Respondent
Through: Mr. Amit Ahlawat, Additional
Public Prosecutor for respondent-
State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of FIR No.243/2012 under Sections 341/452/506/34 of IPC and Sections 27/54/59 of the *Arms Act* registered at P.S. Vasant Kunj, Delhi is sought on merits.

At the hearing, learned counsel for petitioner contends that civil court's order is in favour of petitioner and the complainant of this FIR has no locus of stay in the property in question and that the ingress into the property in question was lawful one and the alleged offences have not been committed by petitioner.

It was pointed out that petitioner is having a licensed firearm and

so, no offence under the *Arms Act* is made out.

Learned Additional Public Prosecutor for respondent-State submits that after the accused has appeared before the trial court, the matter would be listed for arguments on charge and the pleas taken herein ought to be urged by petitioner at the time of hearing on charge.

Since petitioner has 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)* as referred to hereinabove, this petition is disposed of with liberty to petitioner 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 and reasoned order. Needless to say, if trial court chooses to frame charges against petitioner, then petitioner shall be at liberty to avail of the remedy

as available in law, if so advised.

This petition and the applications are accordingly disposed of while refraining to comment upon merits, lest it may prejudice petitioner before trial court.

(SUNIL GAUR)
JUDGE

JULY 08, 2015

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