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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 7th August, 2015

+ CRL.M.C. 3155/2015
PRADEEP KUMAR BAJAJ Petitioner

Through: Mr. H.C.Kharbanda &
Mr.T.N.Saxena, Advocates

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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(O R A L)

Petitioner is an accused in FIR No.624/1998 for the offence of cheating registered at Connaught Place, New Delhi and his application for discharge is rejected by trial court vide order of 8th August, 2012, which stands affirmed by the revisional court vide impugned order of 31st March, 2015.

At the hearing, learned counsel for petitioner submits that there is no criminality and the facts giving rise to the FIR in question are of purely civil nature and petitioner is ready to refund the balance amount of ₹50 lac. It is submitted that petitioner has already refunded an amount of ₹36 lac out of the total amount of ₹50 lac received by him and is ready to return the remaining

amount of ₹14 lacs as well. For this purpose, let petitioner approach trial court with an application for compounding of the offence in question. So far as challenge to the impugned order on merits is concerned, I find that petitioner has an alternate and efficacious remedy available to urge the pleas taken herein at the stage of framing of charge.

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. In case of eventuality of offence in question being not compounded, it is

made clear that trial court shall decide whether petitioner has to be put on trial after hearing the arguments on charge uninfluenced by the impugned orders. 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 application are accordingly disposed of while refraining to comment upon merits, lest it may prejudice petitioner before trial court.

(SUNIL GAUR)
JUDGE

AUGUST 07, 2015

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