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

Date of Decision: August 24, 2015

+ CRL.M.C.3422/2015

KAILASH & ORS.

..... Petitioners

Through: Mr. Sudhir Kathpalia, Advocate

versus

STATE (NCT OF DELHI) & ANR.

.... Respondents

Through: Mr. Satya Narayan, Additional
Public Prosecutor for State with
ASI Rajender Singh

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Crl.M.A.12227/2015 (Exemption)

Allowed subject to all just exceptions.

Crl.M.C.3422/2015

This is second round of litigation. In the first round, petitioner had sought quashing of FIR No.24/2008 under Section 419/420/467/468/471/201/120B IPC registered at Police Station Crime Branch, Nehru Place, New Delhi on the ground that entire amount of loan has been pre-paid to the respondent-bank and similar petition was dismissed by another Bench of this Court vide order of 6th August, 2012 (*Annexure E*). At the hearing, learned counsel for petitioner places

reliance upon Apex Court's decision in *Nikhil Merchant v. CBI & Anr.* AIR 2009 SC 428 and *Gian Singh Vs State of Punjab*' (2012) 10 SCC 303 to submit that even in cases of forgery, FIR/charge-sheet can be quashed as the disputed amount already stands paid to respondent-complainant bank.

Upon hearing and on perusal of FIR/charge-sheet, earlier rejection order (*Annexure E*) and the decisions cited, I find that Apex Court in *Gian Singh (supra)* has recorded a note of caution that in serious offences, criminal proceedings are not to be quashed merely on the basis of settlements. Aforesaid view stands reiterated by Apex Court in a later decision in *Narinder Singh v. State of Punjab* (2014) 6 SCC 466. On this aspect, pertinent observations of Apex Court in *Narinder Singh (supra)* are as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties

have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2 When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.”

Applying the afore-noted dictum to the facts of this case and in view of the fact that ‘No Objection Certificate’ from respondent-complainant bank is not forthcoming and otherwise also, no case for quashing the FIR in question is made out particularly in view of the fact that petitioners’ earlier similar petition also stands rejected by another Bench of this Court. Moreover, forgery aspect which is very much there in this case, dissuades this Court to exercise its inherent extraordinary jurisdiction under Section 482 Cr.P.C. to quash the FIR in question particularly when charge-sheet in this case has been filed and the case is

pending for framing of the charges.

Consequentially, this petition is disposed of while refraining to comment upon merits of this case.

(SUNIL GAUR)
JUDGE

August 24, 2015

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