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

Judgment delivered on: 10th December, 2015

+ CRL.M.C. 4908/2015

ARINDAM BOSE & ANR. Petitioners

Represented by: Mr. K. Sunil, Advocate

versus

STATE & ANR Respondents

Represented by: Mr. Hirein Sharma, APP for
State with Ins. Yogesh Malhotra

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide present petition, petitioners seek direction thereby quashing of FIR No. 76/13 registered at Police Station Janakpuri for the offences under Section 406/420/120-b/34 IPC.

2. Learned counsel appearing on behalf of the petitioner submits that the allegation of the complainant are relating to commercial transactions. The present case is of civil nature, however, the petitioners could not have been booked in a criminal case.

3. He further submits that pursuant to order dated 20.06.2013, while granting the bail the Trial Court directed the petitioner to refund the amount to the victims. Accordingly, he has refunded the amount. Learned counsel submits that the cause is of civil nature, accordingly the case may be quashed against the petitioners.

4. In argument, learned counsel for the petitioner relied upon the case of Thermax Limited & Ors. Vs. K.M. Johny & Ors. 2011 13 SCC 412 and case of Paramjeet Batra Vs. State of Uttarakhand & Ors. decided in Criminal Appeal NO. 2069/2012 on 17.12.2012.

5. Learned counsel for the petitioner submits that in all the FIRs registered against the petitioners they have paid the amount to the victims whomsoever came forward.

6. However, the case against the petitioners is that they advertised to sell products online giving huge discounts with the intention of cheating and also used the money paid by the complainant and other victims for their personal use which amounts to cheating. The petitioners after taking the money in advance from the complainant and from other victims on the promise to deliver the order/product however did not deliver the product and also refuse to return the money which amounts to cheating and criminal breach of trust.

7. The complainants also served a legal notice dated 30.01.2013 upon petitioners, despite that refused to deliver the ordered product and also advance money taken by lowering the complainant and other 34 victims.

8. Learned counsel appearing on behalf of the State submits that the present case is not the only case against the petitioners, however, there are four other FIRs also registered which are as under:-

1. FIR No. 67/2013, registered at Police Station EOW wherein 25 victims are there.
2. FIR No. 124/2013, registered at Police Station EOW wherein 39 victims are there.

3. FIR No. 90/2013, registered at Police Station Janakpuri apart from the present FIR No. 76/2013.
9. Learned counsel for the State submits that the petitioners have cheated 700 to 800 people throughout India accordingly FIRs have been lodged and after investigations police has filed the charge-sheet in the present case before the Trial Court and case is pending for arguments on charge.
10. Keeping in view the allegations of the petitioners and the charge sheet already filed before the Trial Court I am not inclined to quash the FIR at this stage but the petitioner is at liberty to raise all the issues raised in the petition before the Trial Court at the time of passing of the order on charge.
11. Petition is accordingly disposed of.

Crl. M.A. 17571/2015

Dismissed as infructuous.

SURESH KAIT, J

DECEMBER 10, 2015

Hkaur/jg