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

\+ CRL.M.C. 3148/2016

AJAY GUPTA

..... Petitioner

Represented by: Mr. L.K. Jha, Adv.

versus

STATE (NCT OF DELHI) & ANR

..... Respondent

Represented by: Mr. Kewal Singh Ahuja, APP.
Mr. O.P. Gaggar, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% **01.09.2016**

Crl.M.A.13500/2016 and 13502/2016

Exemptions allowed subject to just exceptions.

Crl.M.A. 13501/2016

For the reasons stated in the application delay of 121 days in refiling is condoned.

Application is disposed of.

CRL.M.C. 3148/2016

By the present petition the petitioner seeks quashing of FIR No.97/01 under Section 467/468/471/409 IPC registered at PS Kalyanpuri on the complaint of the then Assistant Manager, Panchsheel Park Branch Mr. R.K. Sharma.

The petitioner seeks quashing of the FIR on the ground that allegedly misappropriated amount has already been deposited with the Bank. The petitioner also relies upon the order of the learned CMM passed on 18th November, 2015 which is reproduced as under:

> *"FIR No.97/01*
> *PS: Kalyanpuri*
> *18.11.2015*
>
> *Pr: Ld. APP for the State.*
> *Accused on bail with Counsel Sh. Lalit Kumar Jha.*
> *Sh. Lakhpat Singh, Asstt. Manager, Central Bank of India, Panchsheel Park in person.*
>
> *No quashing petition has been filed by accused till date. Counsel for accused has submitted that quashing petition shall be filed soon before Hon'ble High Court of Delhi. Sh. Lakhpat Singh has submitted that Central Bank of India does not have any objection if present FIR is quashed against accused and that bank will cooperate in getting the same quashed as bank has no grievances left against the accused. Heard. At joint request be put up for FP on 14.01.2016."*

Learned counsel for the respondent No.2 states that though the respondent No.2 Bank admits that the misappropriated amount has been deposited by the petitioner, however he has instructions not to make statement that there is any settlement with the petitioner for the reason the Bank has proceeded with the petitioner departmentally and removed him from services.

Merely because the petitioner has deposited the misappropriated amount with the Bank the same will not absolve the petitioner from the liability of the criminal offences committed by him and in the absence of the authorized officer of the Bank making a statement that they do not wish to pursue the above-noted FIR against the petitioner, no quashing of the FIR can be done.

Petition is dismissed.

MUKTA GUPTA, J.

SEPTEMBER 01, 2016
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