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

\+ CRL.M.C. 3127/2012

Date of Decision : February 19th, 2016

E.MOHANDAS ..... Petitioner

Through Mr.Mohit Mathur, Sr. Adv. with Mr.Pradeep Sharma, Adv., Mr.Badar Mahmood, Adv. & Mr.Praman Mathur, Adv.

versus

STATE NCT OF DELHI ..... Respondent

Through Mr.Vinod Diwakar, APP for the State SI Kailash Chand, Sec.-1, EOW. Mr.Ravinder Kumar, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the “Cr.P.C.”) read with Article 227 of the Constitution of India has been filed by the petitioner for quashing the FIR No.804/2000, under Sections 420/468/471/120-B of the Indian Penal Code (IPC), registered at Police Station Connaught Place and all the proceedings pending in pursuance thereto in the Court of learned Additional Chief Metropolitan Magistrate, Patiala House Court, New Delhi.

2. Factual matrix, emerges from the petition, is that the petitioner was working as Personal Assistant to Mr.Ramesh Kumar Jain who is the Chairman & Managing Director of M/s Pashupati Spinning and Weaving Mills Ltd. In the year 1993-94, the said company proposed to launch a pharmaceutical project and therefore, required a drug licence. For obtaining a drug licence, the company was required to have a chemist/drug licence holder on its employment. Therefore, the services of complainant Mr.L.D. Pandey were availed and it was agreed that after successful commencement of the project, Mr.L.D. Pandey would be absorbed as an employee of the company. The said project could not commence and the same was abandoned in 1994.

3. On 13.12.2000, the complainant Sh. L.D. Pandey made a complaint to the police to the effect that Mr.Ramesh Jain had not paid the agreed dues on account of engaging the services of the complainant as Pharmaceutical Consultant. It was alleged that on 17.02.1998, Mr.Ramesh Jain called the complainant to his office on the pretext of settling the dues, but the complainant was forced to sign papers. No dues endorsement was taken on the company letter head from the complainant. During initial inquiry, it was revealed that the

papers bore forged signatures of the witnesses.

4. On the basis of complaint made, the FIR in question was registered. After investigation, charge sheet was filed in the Court against petitioner/accused E.Mohan Das and one Tota Ram Swami. Accused Ramesh Kumar Jain was kept in column no.2. Vide order dated 26.10.2012, Ramesh Kumar Jain has also been summoned as an accused by the Trial Court.

5. Arguments advanced by the learned Senior Counsel for the petitioner, learned Additional Public Prosecutor for the State as well as learned counsel for the respondent no.2 have been heard.

6. Argument advanced by the learned Senior Counsel for the petitioner is that during investigation of the case, the matter was settled between the parties on 06.09.2001 and the complainant furnished his affidavit to this effect in Crl.M.C. 3500/2001 which was withdrawn on account of the law prevailing at that time. It is further argued that the complainant succeeded in extorting a sum of Rs.11 lacs from the employer of the petitioner and never turned up to withdraw the matter. It was on the demand of the complainant that an experience certificate was issued to him and that too on humanitarian

ground to secure some job. One Mr.Tota Ram Swamy promised the petitioner to help in reaching the settlement and getting it endorsed by some officer of the Labour Department. It is further argued that about 12 years has passed since the filing of the charge sheet and yet the charges have not been framed.

7. In support of the above contentions, learned Senior Counsel for the petitioner has relied upon judgment in the case of ***Madhavrao Jiwajirao Scinidia & others v. Sambhajirao Chandrojirao Angre & others (1988) 1 SCC 692*** in which it was observed that the legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie establish the offence or not. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilised for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal

prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage. On similar point, judgment in the case of ***State of Haryana & others v. Bhajan Lal & others 1992 Supp. (1) SCC 335*** has also been relied upon.

8. Further argument advanced by the learned Senior Counsel for the petitioner is that there is an inordinate delay of 12 years on the part of the investigating agency without any reasonable clarification. On this point, judgment in the case of ***Pradeep Goyal v. Enforcement Department MANU/DE/9866/2007*** has been relied upon in which the proceedings were quashed on the ground of inordinate delay. Next judgment relied upon is in the case of ***Vakil Prasad Singh v. State of Bihar 2009 Cri.L.J. 1731*** in which the Hon'ble Apex Court quashed the prosecution because the prosecution had failed to show exceptional circumstances which could possibly be taken into consideration for condoning the inordinate delay of more than two decades.

9. On the contrary, argument advanced by the learned counsel for the complainant/respondent no.2 is that the petitioner is one of the

perpetrators of the crime. Forged documents have been made by the petitioner along with co-accused persons in furtherance of the criminal conspiracy. Some of the forged documents pertain to government officials. The allegations against the petitioner are matter of trial for which evidence is available. Accused Ramesh Kumar Jain had obtained the services of the complainant but failed to clear the dues, therefore, the complainant was forced to lodge the complaint.

10. The main contention of the petitioner is that the complainant had entered into settlement with the petitioner for which earlier a quashing petition bearing Crl.M.C. 3500/2001 was filed in this Court. If for the sake of arguments it is taken as correct that earlier the quashing petition was filed for quashing the FIR in question, perusal of order dated May 10, 2002 passed in Crl.M.(M) No.3500/2001 shows that the same was dismissed as withdrawn. No explanation has been given by the petitioner as to why he remained silent for the last about 13½ years. The ground taken by the petitioner is that the complainant kept on extorting money from the petitioner and so far he has extorted Rs.11 lacs from the company of the petitioner. No complaint has been placed on record by the petitioner to substantiate

this plea that any extortion was made by the complainant.

11. Perusal of record shows that the date of incident of the present case is 01.05.1994 and the FIR in question was registered on 13.12.2000. The charge sheet was filed in the Court on 28.11.2002. More than 13 years have elapsed but the charge in the present case has not yet been framed due to the delaying tactics adopted by the petitioner. It appears that the petitioner is delaying the trial on one pretext or the other. Even otherwise, the pleas raised by the petitioner are matter of defence and trial and the petitioner would have ample opportunity to put the same before the Trial Court.

12. In view of the foregoing discussion, this Court is of the considered opinion that no case is made out for quashing the FIR in question and no interference is warranted in the present case under Section 482 of Cr.P.C.

13. Consequently, the present petition is dismissed.

(P.S.TEJI)
JUDGE

FEBRUARY 19, 2016
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