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

+ **BAIL APPLN. 1248/2016 & CrI.M.A. No.9857/2016**

SANJAY K. KALRA @ RAMNIK KALRA

..... Petitioner

Through: Mr. Pramod Kr Sharma, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Rajat Katyal, APP with SI
Shrikant

Mr. Rajat Bhalla, Adv with Mr.
Bhanu and Mr. Mohit, AR of the
complainant

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

09.08.2016

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The applicant has preferred the present application under Section 438 Cr PC apprehending arrest in case FIR No.134/2015 registered at PS Chanakyapuri under Section 406/420 IPC. The submission of counsel for the applicant is that the aforesaid FIR has been got registered only with a view to make recovery of the amount claimed by the complainant. He submits that the civil suit has already been preferred by the complainant in respect of the same transaction under which payment has been claimed. Learned counsel further submits that the applicant is ready and willing to

settle the accounts with the complainant and there are certain outstanding dues receivable by the applicant from the complainant. He further submits that the amount in question had been paid by the complainant to the applicant for the purpose of issuing advertisements in daily newspapers. However, it had been made clear that the rates would be revised soon. By the time the advertisements could be published, the rates had already been revised. The publication of advertisements could not be undertaken on account of revision of rates. If the complainant were to make the payment of the differential amount between the differential rates and the amount paid, the applicant would make the publication even now. He further submits that the applicant has already joined the investigation and provided documents to the I.O.

On the other hand, Mr. Katyal has referred to the status report placed on record. He submits that the applicant had given assurance to the complainant to issue advertisements for the complainant in daily newspapers. On the basis of the assurance given by the accused, the complainant issued cheques aggregating to Rs.7,90,698/- after deduction of TDS. The said payment had been made as demanded by the accused vide email dated 05.07.2013. The applicant, however, did not discharge his obligation. After waiting for some time, the complainant asked the applicant to either make the publication or return the money. However, the applicant did neither of the two things. Consequently, the complaint was filed leading to the registration of the FIR.

The applicant had been called to the court. He submits that he is ready to refund the amount provided the amount due to him is paid. In that respect, the complainant has pointed out that for the work earlier assigned to

the applicant, he had demanded Rs.1.20 lacs which has been paid. The applicant does not dispute the receipt of the amount of Rs.1.20 lacs, but submits that the work done was for a higher value.

There is nothing placed on record in this regard by the applicant. In fact, the correspondence placed on record shows that while demanding the amount of Rs.8,06,835/- vide email dated 05.07.2013, the same was demanded only in respect of advertisements to be issued in the newspaper and there was no mention of any earlier dues of the applicant. It was not indicated that the applicant would adjust any part of the amount paid by the complainant towards any alleged earlier dues.

In these circumstances, in my view, the applicant is not entitled to grant of any protection at this stage. The applicant should surrender and join the investigation. The application stands disposed of.

Any observation made herein above has been made only for the purpose of consideration of the present application and shall not affect the case of either party on merits.

VIPIN SANGHI, J

AUGUST 09, 2016

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