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

+ CRL.M.C. 152/2018

SUNIL KUMAR BHADANA

..... Petitioner

Through: Ms. Darshika Tahlani, Advocate for
Mr. Pankaj Yadav, Advocate

versus

STATE & ANR

..... Respondents

Through: Mr. Mukesh Kumar, APP for the
State with SI Teena, PS Dwarka.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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27.09.2018

The petitioner is the complainant in the case arising out of first information report (FIR) No.218/2017 of Police Station Dwarka Sector 23, involving offences punishable under Sections 419/420/467/468/471/120-B IPC. It appears that as per the allegations of the petitioner, the second respondent (the accused) had committed, *inter alia*, the offence of cheating by taking amount of Rs.1.20 crores from him on the pretext of transferring certain agricultural land on the basis of certain documents which statedly were forged.

The second respondent was arrested and was sent to judicial custody w.e.f. 04.10.2017. He moved an application for bail (5661/2017) which came up before the court of Sessions on 28.11.2017. A copy of the said order would show that it was submitted on behalf of the second respondent that, in order to show his *bona fide*, he was ready to pay an amount of Rs.48

lacs to the complainant. This offer being acceptable to the complainant, a specific schedule having been indicated for the payment to be made, the court of Sessions recorded the submissions and released the second respondent on bail, subject to payments to be made, though observing in the penultimate para of the said order that the parties would abide by the terms and conditions entered into by them and in case any of them backed out of the “*settlement*” the other party will have the liberty to take action against the defaulting party as per law including to seek cancellation of bail.

It may be added here that on subsequent application, with the consent of the petitioner, by order dated 19.01.2018, the schedule of payment was slightly modified.

Be that as it may, the present petition was brought by the complainant invoking inherent power of this court under Section 482 Cr.P.C. for clarification or modification of the order dated 28.11.2017, apprehension being that the observations in the penultimate para to above effect might be construed as full and final settlement of the claim of the petitioner depriving him of right to recover the entire amount of which he was cheated.

The second respondent had been served with the notice and had even entered appearance on previous dates through counsel. There is no appearance on his behalf on the matter being called out. No reply has been filed in spite of opportunity being granted.

Sub Inspector Teena is present for and on behalf of the investigating officer and submits that charge sheet has already been filed in the court of Metropolitan Magistrate where the case is pending.

The order granting bail on such settlement as above can, of course, not be taken as full and final settlement of the dispute between the complainant on one hand and the accused on the other in so far as the claim of the former about he having been deprived of Rs.1.20 crores, his right to recover the money which he had paid in accordance with law being not affected by any such arrangement as was recorded only to permit release of the accused on bail.

With these clarifications, the petition is disposed of.

R.K.GAUBA, J.

SEPTEMBER 27, 2018

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