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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 27th September, 2018

+ CRL.M.C. 5684/2014 and Crl. M.A. 19437-19438/2014

UMESH VERMA Petitioner

Through: Mr. Ruchir Batra, Advocate

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through: Mr. Mukesh Kumar, APP for the
State with SI Amit Kumar

Mr. Prasanjit Keswani and Mr. RAghvendra
Pratap Singh, Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petition at hand was filed invoking the inherent power of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.PC) to pray that the proceedings arising out of the first information report (FIR) no.398/13 of police station Saraswati Vihar (the correct police station is Subhash Place as shown by the copy of the FIR appended at page 48 of the paper book) lodged by the third respondent involving offences punishable under Sections 420, 468, 471, 120B of Indian Penal Code, 1860 (IPC) be quashed, it being in the nature of gross abuse of the process of law initiated with *malafide* intention.

2. The petition has been resisted both by the third respondent (complainant) as also by the State. The status report which has been

filed for and on behalf of the SHO of the concerned police station (police station Subhash Place) pursuant to the directions of the court indicates the process of investigation to be at an advanced stage, forensic report having since been received, the same indicating forgery of a document described as supplementary rent agreement dated 22.06.2012, the claim of the petitioner about presence of Gurcharan Singh, brother of the complainant, being present at the relevant point of time, having been found to be false and unfounded with clear evidence showing he to have been abroad, having returned to India later on 25.06.2012.

3. The dispute concerns a premises concededly owned by the complainant which is stated to have been taken on rent by and in the name of a partnership firm M/s. Sunaar, in which the petitioner was one of the stake holders. It is his case that he was the proprietor of the business in the name and style of M/s. U.K. Diamond, which was later converted into a partnership firm with two others namely Aman Sagar and Manish Jain. It appears from the pleadings and the submissions that the petitioner had fallen out with his partners and, against such backdrop, on 20.06.2012 Manish Jain one of the partners had executed a document described as surrender of lease thereby handing over symbolic possession of the premises to the landlords. It is further alleged that on 22.06.2012, the petitioner also executed a similar document styled as “surrender of lease” whereby he handed over the vacant and peaceful possession of the demised premises.

4. It is, however, the case of the petitioner that he had been made to sign the aforesaid document on 22.06.2012, the landlords *i.e.* Jagjit Singh, brother of the complainant on his behalf and on behalf of other co-owners having executed a supplementary rent agreement in respect of the same premises in his favour, his tenancy and possession having thus continued. It is also his allegation that on 05.07.2012, the complainant and those on his side had committed criminal trespass into the tenanted premises, removing his entire goods against which backdrop he was constrained to file a civil suit under Section 6 of Specific Relief Act, 1963. The suit concededly is being contested by the complainant and his brothers (they being the owner of the premises), it being presently pending.

5. It is in the context of the abovesaid civil suit that reliance was placed by the petitioner on the document described as “supplementary rent agreement” dated 22.06.2012. The FIR, quashing of which is sought was lodged by the third respondent against the petitioner on the allegations that the said document had been forged and fabricated.

6. A perusal of the FIR would show that it was registered on 06.09.2013 and investigation into the offences punishable under Sections 420, 468, 471, 120B IPC was undertaken. Status report, as has been adverted to above, shows that investigating agency has gathered material supporting the case of the complainant against the petitioner.

7. It is pertinent to also note that after the FIR quashing of which is prayed had been lodged, at the instance of the petitioner, another

FIR no.557/14 was registered by the same police station wherein allegations have been made concerning the same set of facts and circumstances involving offences punishable under Section 420, 120B, 467, 448, 380, 468, 454, 403, 471, 465 IPC.

8. The arguments of the petitioner that the allegations made in the FIR lodged by the third respondent are *malafide* or unfounded are wholly devoid of substance or import. As noted above, there is evidence already gathered during the investigative process *prima facie* indicating the document in the nature of a supplementary rent agreement to be a forgery. It is not fair on the part of the petitioner to seek quashing of the FIR of the opposite party while the investigation into the cross FIR lodged at his instance later is underway. Both the FIRs may be concerning the same issues of fact from different angles. But then, there is no reason why the investigation into the FIR of the petitioner be given primacy, while the allegations in the FIR of the opposite party be trashed at this stage by scuttling the probe. [see *Surender Kaushik and Ors. VS. State of Uttar Pradesh and Ors.*, (2013) 5 SCC 148].

9. Even otherwise, it is trite that questions of fact cannot be properly addressed in the jurisdiction under Section 482 Cr. PC particularly when the investigation is still incomplete. [see *Rajiv Thapar and Ors. Vs. Madan Lal Kapoor*, (2013) 3 SCC 330].

10. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

September 27, 2018/yg