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

\+ CRL.M.C. 2926/2015 & Crl.M.A.10443/15, 10445/15

HARISH KHURANA & ANR ..... Petitioners

Through : Mr.Manu Mridul, Advocate.

versus

THE STATE OF NCT OF DELHI ..... Respondent

Through : Mr.Ravi Nayak, APP.
Mr.Harsh Sinha, Advocate, for R-2.
SI D.Dubey, PS Anand Vihar.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

O R D E R

% 12.07.2018

The present petition invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 was filed seeking quashing of the proceedings arising out of the criminal case registered on the basis of report under Section 173 Cr.P.C. submitted on conclusion of investigation into FIR No.213/2005 under Sections 420/467/468/120-B IPC registered at Police Station Anand Vihar. The case in question was registered at the instance of HDFC Bank Ltd., which is re-presented through its Area Manager in these proceedings, the second respondent. The charge-sheet was submitted long ago. The presiding Additional Chief Metropolitan Magistrate, by order dated 07.07.2009, found sufficient grounds to put the accused persons on trial, they including the petitioners, on charge for offences punishable under Sections 420/467/468/471/120-B IPC. Against the said order of framing charge, no petition has been filed in any court and thus the order has taken finality.

Having regard to the copy of the proceedings which have been filed, the case has continued to linger on the file of the Additional Chief Metropolitan Magistrate. Strangely, adjournments were granted at the instance of the petitioners on the pretext that the matter had been settled with the bank and time was required for appropriate proceedings to be filed in this Court. The order dated 17.07.2010 (page 106 of the paper book) may be quoted as illustration. Some of the accused would even jump bail resulting in duress process being issued to secure their presence.

The present petition was filed questioning the continuance of the prosecution on merits on the allegations made as also on account of inordinate delay that has occurred. When the matter was taken up for hearing, the counsel for the petitioners submits that the matter has already been amicably resolved with the respondent-Bank i.e. the complainant, as the money which was taken for car loan has already been repaid.

It is not a case where two private parties came to be embroiled in a dispute over money on allegations of one having been cheated by the other attracting merely the offence under Section 420 IPC. As pointed out by the Additional Public Prosecutor, loan of Rs.34,18,600/- was obtained to raise finance for purchase of

Mercedes Benz car bearing No.DL 2CAB 0007. The documents which were submitted in support of the application for the loan included registration certificate which was found to be fake and fabricated. This is why the case involves much serious offences punishable under Sections 467/468/471 IPC.

It is indeed a matter of concern that the bank in the service of public at large dealing with money held in trust, is ready to bury the hatchet only because the money which was fraudulently obtained from it has since been refunded. As observed by the Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinghbhai Karmur and Others vs. State of Gujarat and Another* (2017) 9 SCC 641, the inherent power under Section 482 Cr.P.C. to quash the proceedings in a criminal case ought not to be exercised in cases involving economic offences which concern financial and economic well-being of the State and having implications that go beyond the domain of mere private dispute.

As regards the delay, the copy of the proceedings recorded before the trial court themselves indicate that the accused persons, including the petitioners, have made all endeavour to stall the progress of the criminal action. It is a matter of concern that the Magistrate(s) presiding over the trial have been indulgent in granting the request(s) for adjournment. Better control over the proceedings will have to be exercised to take the case expeditiously to the logical conclusion.

During the course of submissions, it was also argued that the bank has lost its interest on account of the money involved having been repaid and this is why its officials have not been appearing before the Trial Court where the case is pending. It will have to be borne in mind by all concerned that in a case of this nature it is not the choice of the bank or its officials to appear or not to appear. The prosecution and the trial Court will have to take all necessary measures to secure the presence of all the concerned witnesses if need be by duress processes, in accordance with law.

With these observations, the petition seeking quashing of the proceedings is dismissed.

R.K.GAUBA, J.

JULY 12, 2018/sa