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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 23rd August, 2018

+ CRL.M.C. 4927/2015

PAWAN GUPTA

..... Petitioner

Through: Mr. Neeraj Sharma and Mr. Satpal
Sharma, Advocates

versus

STATE OF NCT DELHI & ORS

..... Respondents

Through: Mr. Akshai Malik, APP for the
State

Mr. Siddharth Mehta, Adv. for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing prosecution in the criminal case in the court of the Metropolitan Magistrate on the basis of a report under Section 173 of the Code of Criminal Procedure, 1973 (Cr. PC) submitted upon conclusion of investigation into first information report (FIR) no.822/2005 of police station Prashant Vihar. By order dated 13.08.2012, charges were framed putting him on trial for the offences punishable under Section 420 read with Section 511, Sections 471, 474, 419 and 381 of Indian Penal Code, 1860 (IPC). The case thereafter has been at the stage of evidence for prosecution.

2. The present petition has been moved invoking the inherent power of this court under Section 482 Cr. PC to seek quashing of the abovesaid criminal case on the ground the matter had been “compromised” by him with the second and third respondents.

3. While the second and third respondents through counsel agree that the dispute has been settled with the petitioner, the prayer in the petition is resisted by the first respondent / State placing reliance on *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641.

4. Having heard all sides and having gone through the record, this court finds that the gravamen of the charges framed against the petitioner in the criminal case primarily is that he was an employee of Kundan Edible Oil Mills, a sister concern of Kundan Rice Mill in which the second respondent was the Managing Director, the third respondent being its Chief Financial Officer at the relevant point of time. It is stated that the petitioner in his capacity as an employee under the said respondents had dishonestly removed a cheque leaf of the said entity against its bank account with HDFC bank, and the said cheque leaf having been forged and fabricated so as to purport to be a cheque issued in the sum of Rs.6 Lakh was presented in the bank for obtaining payment there-against. The cheque, upon presentation and scrutiny, was found to be forged and fabricated and this fact having been brought to light, complaint was lodged leading to the registration of the said FIR. During the investigation, the petitioner statedly was unable to account for possession of the cheque which was forged, grave suspicion arising being that he knowing full well that it was a forged instrument had attempted to use it to commit the offence of cheating by presenting it dishonestly to receive value there-against from the bank.

5. This court agrees with the submission of the learned Additional Public Prosecutor that the facts of the case, as noted above, render it one beyond the dispute that is “*private in nature*”. It involves serious economic offences which concern not only the entity against the account of which the forged cheque was attempted to be encashed but also the bank where the account was maintained. Having regard to the spirit of the law laid down by a bench of three Hon’ble Judges of the Supreme Court in *Parbatbhai Aahir* (supra), this can hardly be said to be a case meriting exercise of the inherent power of this court to bring an end to the prosecution.

6. The rulings in *Jagdish Chanana and Ors. vs. State of Haryana and Anr.*, (2008) 15 SCC 704 and *Anil Jain and Ors. Vs. State of Uttar Pradesh and Anr.*, (2015) 15 SCC 707 relied upon by the petitioner do not assist him. The short order in the case of *Jagdish Chanana* (supra) does not indicate the background facts against which the quashing of the criminal proceedings was permitted. The fact that the order of the Supreme Court itself says that the dispute was “*purely personal in nature*” and arising out of “*commercial transactions*” brings out the dis-similarity. Similar is the factual matrix of *Anil Jain* (supra).

7. The petition is thus dismissed.

R.K.GAUBA, J.

AUGUST 23, 2018/yg