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

+ CRL.M.C. 5168/2015 & CRL.M.A. 18621/2015, 6835/2016

ANISH @ BABA & ANR

..... Petitioners

Through: Mr.Amarendra Yadav for Mr. Alok
Singh, Adv.

versus

STATE & ANR

..... Respondents

Through: Mr. Ravi Nayak, APP for the State
with PSI Vishal, PS Vijay Vihar.
Mr. Yoginder Singh, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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01.08.2018

By order dated 23.06.2015, the petitioners have been summoned in the criminal case arising out of report under Section 173 of Code of Criminal Procedure, 1973 (Cr.P.C.) submitted by the police on conclusion of investigation into FIR No. 513/2006 of police station Vijay Vihar involving offences punishable under Sections 328/365/387/420/34 of Indian Penal Code, 1860 (IPC). The petitioners have challenged the said order by the petition at hand invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C. arguing that the proceedings taken out against them are abuse of the process of law, no allegations having been made about their complicity in the crimes in the FIR.

The FIR of the case was lodged by Smt. Munni Devi, wife of Kishore Singh, mother of the victim Pradeep. It appears Pradeep wanted to go

abroad (Italy) to seek gainful employment. He had come in contact with one Iqbal who had promised to make all arrangements for his travel to Italy and also for employment against consideration of Rs. 2.5 lakhs. It is further stated in the FIR, as confirmed during investigation by the police, that Rs. 30,000/- was arranged by the mother of the victim which was passed on to the said person who later further collected Rs. 1 lakh from her. On 23.03.2006, Pradeep was taken to Mumbai for his onward travel to Italy. It appears there was some lack of communication from Pradeep which alerted the mother. Eventually, she received an anonymous call demanding Rs. 4 lakh to be further paid for her son's job. She was able to talk to Pradeep with great difficulty when she was advised by her son not to pay further amount as the person(s) receiving would be misappropriating it and rather not arrange any job for him. She suspected her son was being illegally confined in Mumbai. During investigation, Pradeep Kumar came to be traced and his statement was recorded. As per his version, he had been confined illegally in Mumbai, in that context role being attributed by him to the petitioners herein, particularly of they having administered some toxic substance to him rendering him unconscious leading to the wrongful confinement, they also being party to the demands for payment.

In the aforesaid facts and circumstances, it cannot be said that the summoning order has been passed by the Metropolitan Magistrate, without there being any evidence against the petitioners. The questions of fact raised here cannot be addressed in proceedings under Section 482 Cr.P.C. The petitioners are at liberty to raise the defences that they wish to agitate at the time of consideration of charge or in the proceedings following framing of

charge.

With these observations, the petition is dismissed.

The trial court record shall be returned.

R.K.GAUBA, J

AUGUST 01, 2018

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