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

\+ **W.P.(CRL) 3895/2018 & CRL.M.A. 50244/2018, 34578/2019**

RAJIV GUPTA ..... Petitioner

Through Mr Mohit Mathur, Senior Advocate with Mr Manoj Pant and Mr Deepal Goel, Advocates.

versus

STATE & ANR. ..... Respondents

Through Mr Rahul Mehra, Standing Counsel. Mr Tanmay Mehta, Mr Sadman Hoshmi and Mr Sahil Gupta and Mr Sheezan Hashmi, Advocates for R2.
Insp. Ritesh, ISC/Crime.

**CORAM:**
**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**O R D E R**

% **15.10.2019**

1. The petitioner has filed the present petition, *inter alia*, praying that the FIR No. 211/2018 under Section 420 of the Indian Penal Code, 1860 (IPC) registered with Police Station Crime Branch, be quashed.

2. The FIR in question was registered at the instance of respondent no.2 (Ved Prakash Gupta). In his FIR, respondent no.2 has alleged that he had been approached by the petitioner with an investment proposal. The petitioner had allegedly stated that he was setting up a university in Dehradun and had tied up all the permissions for the same. Respondent no. 2 has alleged that the petitioner had represented that he was in need of money for the purchase of land for establishing the university and, thereafter, for its

construction. According to respondent no.2, the petitioner had promised that he would pay handsome interest on this investment every financial year after the university was established. The petitioner had also represented that respondent no.2 would be entitled to place one candidate in each course without payment of any capitation fees.

3. Respondent no.2 filed a complaint alleging that he was lured by the representations made by the petitioner and had, accordingly, paid him ₹30 lakhs from his own account as well as ₹30 lakhs from his wife's (Smt Nisha Gupta) account. Respondent no.2 has also stated in the said FIR that he had paid approximately a sum of ₹1.10 crores to the petitioner and had refused to pay any further sum to him, since the petitioner was not responding to his request to show the progress made in establishing a university or the land that was stated to have been purchased by him. Respondent no.2 alleged that after pursuing the petitioner for a while, he was informed by the petitioner that the entire money accepted by him had been utilized by the petitioner for personal purposes and he did not have any funds to repay the said amount.

4. A perusal of the FIR in question indicates that respondent no.2's complaint was regarding being induced to pay a sum of ₹60 lakhs on the basis of the false representations made by the petitioner. According to respondent no.2, petitioner had failed to repay the amount with interest as promised.

5. The petitioner has filed the present petition clearly admitting that he had been borrowing money from respondent no.2 from time to time. He states that in the past eight years of his acquaintance with respondent no.2, he had consummated transactions of about Rupees 80 to 100 crores. The

petitioner has averred that he had borrowed amounts from time to time and repaid the amounts due to respondent no.2 with interest. The petitioner asserts that he was maintaining a running account with respondent no.2 and as per his books, a sum of ₹3.46 crores was outstanding and payable to respondent no.2 and his family members.

6. The petitioner has also given the break up of ₹1.10 crores received from respondent no.2. According to the petitioner, a sum of ₹30 lakhs was received from V.P. Gupta & Sons (HUF); ₹30 lakhs from Nisha Gupta (wife of respondent no.2); and ₹50 lakhs from the account of Ms Twinkle Khanna (Daughter in law of respondent no.2). It is also averred that interest on the said amount had been transferred to respondent no.2 on two occasions and the said amount had also been repaid.

7. The present petition was first listed on 19.12.2018. On that date, the petitioner had offered to deposit a sum of ₹75 lakhs in three tranches of ₹25 lakhs each, which were to be deposited on 27.12.2018, 15.01.2019 and 31.01.2019. The said amounts had admittedly been paid to respondent no.2. Thereafter, on 27.02.2019, the petitioner undertook to pay a further sum of ₹50 lakhs in two equal instalments of ₹25 lakhs each. The said instalments were to be paid on 31.03.2019 and on 30.04.2019 to respondent no.2 and his daughter in law. Admittedly, the said amounts have also been paid.

8. After the FIR in question was filed, respondent no.2 has made further allegations. The assertions now made are inconsistent with his complaint at least in so far as the amounts invested are concerned. He now alleges that a sum, significantly larger than as earlier claimed, was invested by him.

9. *Prima facie*, it appears that the police authorities are now being used by respondent no.2 to now iron out his commercial transactions with the petitioner. This Court is refraining from making any further observations in this regard, as it is expected that the police authorities will act in accordance with law and conduct a fair investigation into the complaint made by respondent no.2 as well as the explanations offered by the petitioner.

10. The petitioner also made counter allegations stating that he has been coerced to execute certain documents, including a MOU, which bears the date on which he was not present in India. Needless to state that these allegations would also be examined by the police authorities. Since, the complainant (respondent no.2) has been conveniently changing figures which he has alleged to have lent out or invested with the petitioner, it may be apposite for the Investigating Officer (IO) to examine his books of accounts as well as his sources of funds. This would also include a review of the past transactions.

11. Respondent no.2 is directed to produce his books of accounts (cash book/bank statements/ etc.) since the year 2010 till date. He shall give a complete statement of amounts paid through banking channels to the petitioner and all amounts received from the petitioner. The Investigating Officer shall also examine whether the disputes as to the said transactions are in the realm of civil disputes.

12. Mr Mehra, learned Standing Counsel appearing for the State states that the petitioner has not been joining the investigation for the last two months. The petitioner shall appear before the Investigation Officer on 31.10.2019 along with copies of his cash books/cash bank books from 2010

onwards. This includes a copy of the ledger account of respondent no.2 and his family members, maintained in the books of the petitioner. He shall highlight the entries relating to transactions with respondent no.2.

13. Both the parties shall also submit their Income Tax Returns filed since 2010 onwards along with a computation of income, highlighting the treatment of the amounts received by them pursuant to their interse transactions.

14. The investigation shall be conducted under the supervision of the concerned Deputy Commissioner of Police. He is requested to complete the investigation within a period of twelve weeks. In the meantime, no coercive steps shall be taken against the petitioner.

15. The petition is disposed of with the aforesaid directions. All pending applications are also disposed of.

16. Order *dasti* under signatures of the Court Master.

**VIBHU BAKHRU, J**

**OCTOBER 15, 2019**
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