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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-37289-2022

Date of decision : 24.08.2022

Suresh Mal Lodha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anand Chhibbar, Sr. Advocate with
Mr. Shikhar Sarin, Advocate and
Mr. Ateevraj Sandhu, Advocate and
Mr. Aditya Mehtani, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.63 dated 17.02.2020 registered under Sections 34, 120-B, 406, 420 of the Indian Penal Code, 1860 at Police Station Dharuhera, District Rewari and all the subsequent proceedings arising therefrom.

A perusal of the present petition would show that it is the case of the petitioner that earlier a petition bearing No.CRM-M-39281-2020 had been filed under Section 482 of Cr.P.C. for quashing of the present FIR and in the said case, on 25.02.2021, an order was passed by a Coordinate Bench of this Court wherein the Coordinate Bench of this Court had rejected the prayer of the petitioner for quashing of the FIR. Relevant portion of the said

order is reproduced hereinbelow:-

“Even otherwise, the petitioners/accused can move application in the trial Court for discharge taking all the pleas available to them or raise the pleas at the time of consideration on charge and the trial Court is expected to consider such pleas and to pass appropriate order in accordance with law. Furthermore such pleas can be put to the prosecution witnesses during trial, raised by the petitioners/accused while being examined under Section 313 Cr.P.C. and evidence can be led by them in defence.

I find that keeping in view the facts and circumstances of the case the petitioners should first approach the trial Court since some of the objections sought to be taken are in the shape of mixed questions of facts and law, which may require leading evidence by the parties also, which can be done in the trial Court only. Section 482 Cr.P.C. saves the inherent powers of the High Court, which can be used to prevent abuse of process of any Court or otherwise to secure the ends of justice.

A complete mechanism being available under law for redressal of grievances of the petitioners/accused, the petitioners cannot possibly adopt a short-cut route to have prompt decisions by filing the petitions under Section 482 Cr.P.C. This provision is not panacea for all the ills, grouses and grievances of a litigant. If the law does not provide any recourse to a litigant for redressal of his grievances then he may knock at the door of this Court and his grouse can be heard and dealt with in accordance with law but this Court cannot possibly take upon itself the task of resolution of every dispute when the proper forum is the Court down in hierarchy, just because a litigant wants it to be done in a hope that a prompt result would be there.

The lodging of the FIR by the complainant does not

come out to be abuse of process of law and it cannot be said that the FIR does not disclose commission of any cognizable offence or deserve to be quashed for any other plausible reason.

Therefore, the petition is disposed of accordingly relegating the petitioners to the remedy of taking all the pleas before the Investigating Officer and if challan is filed before the trial Court raising all the pleas before the trial Court at appropriate stage and the trial Court would deal with such contentions, in accordance with law.

25.02.2021

Sd/-(H.S. MADAAN)
JUDGE”

It is further the case of the petitioner that he had challenged the said order before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide order dated 08.11.2021, had refused to interfere with the order passed by the High Court and had left it open to the petitioner to raise all the grounds at the stage of Section 239 Cr.P.C.. Relevant portion of the said order is reproduced hereinbelow:-

“The contention of the petitioners is that orders were placed for supply of material on 01.07.2019, 03.08.2019 and 09.09.2019, earlier to the order dated 24.09.2019 by which the Interim Resolution Professional was appointed by the NCLT. Another order was placed on 17.10.2019 and the cheques which dishonoured, were issued for supplies to be made pursuant to the said order. It is not disputed that material was not supplied pursuant to the request made for supply of material on 17.10.2019. After the Interim Resolution Professional was appointed, the petitioners had no control over the company. On behalf of the complainant, it was stated that the investigation is complete and chargesheet has been filed. It was argued on behalf of the

complainant that the petitioners were aware of the pending applications filed under Section 9 of the IBC, inspite of which they placed orders and received the material even after the appointment of Interim Resolution Professional on 24.09.2019. The cheques issued for payment towards the supplies have been dishonoured. Intention to deceive the complainant was existing from the inception and, therefore, the High Court was right in dismissing the applications filed by the Petitioners under Section 482 Cr.P.C.

We have heard the learned counsel for the petitioners and the respondent at length. We are informed that the investigation has been completed and the chargesheet has been filed. In the facts and circumstances of this case, we are not inclined to interfere with the order passed by the High Court by quashing the proceedings. We also do not intend to enter into the merits of the submissions made on both sides as it may adversely affect the parties concerned. Leaving it open to the petitioners to raise all grounds at the stage of section 239 Cr.PC, we refuse to interfere with the order passed by the High Court.

The Special Leave Petitions are accordingly dismissed. Pending application(s), if any, shall stand disposed of.

(B.Parvathi)

(Anand Prakash)

Court Master

Court Master”

Learned Senior Counsel for the petitioner has submitted that in view of the above order, he seeks permission of this Court to withdraw the present petition with liberty to file an application under Section 239 Cr.P.C. before the trial Court and has prayed that the same be considered and decided expeditiously.

In view of the above, the present petition is dismissed as

withdrawn with liberty to the petitioner to move an application under Section 239 of Cr.P.C. before the trial Court and the trial Court is requested to consider the same as expeditiously as possible.

Learned Senior Counsel for the petitioner has further made a prayer stating that the petitioner is an old man of 71 years of age and thus, liberty be granted to him to move an application for exemption from personal appearance before the trial Court.

It would be open to the petitioner to move an application for exemption from personal appearance in accordance with law and the said application would also be considered by the trial Court in accordance with law.

24.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No