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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Order pronounced on 02.11.2022*

+ CRL.REV.P. 115/2022

NAVENDU AGRAWAL

..... Petitioner

Through: Mr. Dhruva Bhagat, Advocate,
DHCLSC with petitioner in person.

versus

STATE & ANR.

..... Respondents

Through: Mr. N.S. Bajwa, APP with SI Kunal
Kumar, PS Dwarka, Sector-23.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The present revision petition has been filed by the petitioner against the order dated 16.11.2021 passed by learned Additional Chief Metropolitan Magistrate (ACMM), South-West District, Dwarka Courts, New Delhi by which the application of the Complainant under Section 156 (3) Cr.P.C. in Criminal Complaint (CC) No. 8490/2020, registered at Sector-23, Dwarka was dismissed.

1.1 In the said order, the following was noticed:-

“On this application report was called from 10 and 10 has reported that on 30.11.2018 on the complaint of Jai Prakash Tehlan an FIR no. 25/2018, under Section 408 IPC was registered in which it was alleged by Jai Prakash Tehlan that the complainant has, after termination of his job, visited the office of Jai Prakash Tehlan and stolen one demand draft and got the same encashed.

The charge sheet of that FIR has already been filed. To the other allegations of filing of fake and forged certificates before various authorities, it is stated by the 10 that so far police has not received any

complaint from the concerned authorities and the action will be taken as and when the authorities write to them. In subsequent report, it is also reported by 10 that even the authority of EPFO which has filed an application for registration of FIR against the complainant has withdrawn his complaint after reply to show cause notice from the accused was accepted by concerned department and penalty imposed was paid.

On last date of hearing, ld. Counsel for complainant Sh. Ranjan Bhatia fairly conceded that complainant has no locus on behalf of these authorities to initiate prosecution or investigation against the accused as the concerned department have imposed penalties at their level wherever required. Ld. Counsel however submitted that the case of complainant qua the action of accused against complainant also discloses cognizable offence as complainant has been framed in a false case after levelling false allegations of theft. It is submission of ld. Counsel for complainant that although the complainant can take his defence in the charge sheet filed against complainant but investigation is required to bring the modus operandi of accused on record and to ascertain the involvement of other culprits. It is also submitted by ld. Counsel that it is also established about the conduct of accused as he is habitually involved in criminal activities.

The grievance of complainant is that he has been falsely framed on a false FIR and was threatened by the accused. Both these actions do constitute offence but none of them is a cognizable one. Therefore, application under Section 156(3) Cr.P.C. in a non cognizable offence is not maintainable. Given the fact that the complainant has conceded about his non locus standi with respect to alleged fake and fabricated dealings with different departments, nothing survives for investigation in this case.

Further power of this Court to order investigation is restricted to the area under its jurisdiction. The police has not received any complaint from various authorities in different part of country where the accused has submitted alleged fake documents.

The complaint of EPFO has already become infructuous as EPFO has imposed penalty which has been paid by the accused.

In these circumstances, I do not see any reason to order any investigation in this case. Hence, the application under Section 156(3) Cr.P.C. is dismissed.

Complainant is, however, at liberty to proceed under Section 200 Cr.P.C. and summon the witnesses whoever he deems necessary to prove his case.

List for PSE, if any, on 14.12.2021”.

1.2 This order has been challenged on the grounds that concept of locus standi in criminal law does not exist; the learned ACMM did not appreciate that instances of forgery and use of forged document by respondent no.2 are

apparent on record; the learned ACMM has failed to appreciate that various government and private agencies have taken action against respondent no.2 in this regard; the learned ACMM has failed to appreciate the ratio of judgment in the matter of *A.R. Antulay vs. Ramdas Srinivas Nayak and Ors.* (AIR 1984 SC 718); registration of FIR is a must in the facts and circumstances of the case and custodial interrogation of respondent no.2 is required; cognizable offence is made out on the face of the record as per the Hon'ble Supreme Court judgment in *Lalita Kumari vs. Govt. of UP*, WP(Crl.) 68/2008; mere registration of previous FIR against the complainant/petitioner is no bar to register an FIR against respondent no.2. DD No. 25B filed by EPFO is still alive against respondent No2; proceedings under Rule 7 A were initiated by EPFO against respondent no.2; it has been wrongly recorded in the impugned order that the counsel had conceded that the complainant/petitioner has no locus standi on behalf of these authorities to initiate criminal prosecution or investigation against the accused; Colonel Naveen Kumar Anand had also complained against respondent no.2 for submitting forged document; even Home Department of Govt. of NCT of Delhi has issued show cause notice to respondent no.2; additional documents filed by the petitioner were not taken into consideration; it is not necessary for the police to receive a complaint from any of the authority against respondent no.2 to initiate action; and the impugned order is perverse and liable to be set aside.

2. Notice was issued.

2.1 Respondent no.2 has filed the reply.

3. Arguments heard.

3.1 During the course of arguments, the learned counsel for the petitioner

has reiterated the content of the revision petition, he has also filed the written submissions on the same lines. A copy of the cancellation report in the FIR against the complainant has also been filed on record.

3.2 On behalf of the respondent in reply, preliminary objection has been taken that the petitioner has not approached this Court with clean hands; the captioned revision petition is an abuse of process of law; this petition has been filed only to settle personal scores with respondent no.2. The same is a counter blast to the FIR No.325/2018 registered against the petitioner at the instance of respondent no.2. The factum regarding registration of FIR No. 285/2020 at PS Ranjit Nagar against the present petitioner was concealed as the said FIR was registered against the petitioner at the instance of another employer under Sections 465/489/471/407/506 IPC. The petitioner is misusing the legal aid available to him and he has initiated numerous frivolous litigations not only against private individuals but also against his own family members. The contents of the petition have been denied in response to the relevant paragraphs. Relevant documents have also been filed on record.

3.3 The learned counsel for respondent no.2, has reiterated the contents of his response. It is argued by learned counsel for respondent no.2 that the petitioner himself was an authorised signatory but he has signed those documents, which he was not authorised to sign, due to which respondent no.2 has suffered huge loss.

3.4 It is an admitted fact that the present petitioner was an employee of respondent no.2 and disputes arose between the petitioner and respondent no.2. An FIR was registered against the petitioner, in which the closure report has now been filed by the police.

3.5 On the other hand, the present petitioner has filed a criminal complaint against respondent no.2.

3.6 The learned Trial Court has rightly observed that as per the report of the IO, no complaint has been received from any of the authorities against respondent no.2. As and when the complaint is received, the police will take action against respondent no.2. It was further noted that even EPFO had withdrawn the complaint against respondent no.2 after the reply to the show cause notice filed was accepted by the concerned department and penalty imposed was paid.

3.7 It was further noticed by the learned Trial Court that the counsel for the complainant had conceded that complainant had no locus standi on behalf of the authorities to initiate prosecution or investigation against respondent no.2 and the said departments have imposed penalties as and when required. At the time of filing of the revision petition, the petitioner denies that any such submission was made by his counsel on his instructions, which is of no use. Further grievance of the complainant is that he was framed in the false FIR and was also threatened by respondent no.2. The learned Trial Court observed that none of these are cognizable offences and since, the complainant has himself conceded about not having any locus standi on behalf of the authorities in respect of the alleged forged and fabricated documents, so, the learned Trial Court has reached to the conclusion that nothing survives for further investigation. No complaint was received by the police from any of the authorities, where the respondent has allegedly submitted the forged and fake documents. One complaint of EPFO was withdrawn and penalty was imposed on respondent no.2, so the learned Trial Court has rightly concluded that it is not a case in which Section

156(3) Cr.P.C. is to be invoked and FIR is ordered to be registered. The learned Trial Court has rightly given an opportunity to the petitioner to lead evidence of his witnesses and if it is found that he is able to prove his case, the requisite action will be taken by the Court.

4. In my view, there is no illegality, impropriety or irregularity committed by the learned Trial Court while passing the impugned order and the revision petition is without any merit and the same is hereby dismissed.

4.1 A copy of this order be sent to the learned Trial Court.

TALWANT SINGH, J

NOVEMBER 02, 2022/nk

[Click here to check corrigendum, if any](#)

