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

Date of Decision: 10.02.2023

+ **CRL.M.C. 959/2023**

SONIA VERMA & ORS.

..... Petitioners

Through: Mr. K.S. Rana and Mr. J.S.
Rawat, Advocates.

versus

THE STATE, NATIONAL CAPITAL TERRITORY
OF DELHI & ANR.

..... Respondents

Through: Mr. Satish Kumar, APP for
the state.

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

CRL.M.A. 3660/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 959/2023 & CRL.M.A. 3661/2023

3. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") read with Article 227 of the Constitution of India has been filed by petitioners for quashing and setting aside the impugned order dated 03.02.2023 passed by learned Special Fast Track Court South West District Dwarka Court, New Delhi in criminal revision no. 520/2022 whereby the revisional Court dismissed the revision petition

and upheld the order dated 18.10.2022 passed by Metropolitan Magistrate, in CT case no. 1634/2021.

4. Issue notice. Learned APP accepts notice on behalf of State.

5. Brief facts of the present case are that petitioner no. 1 and respondent no. 2 became friendly and after some time entered into a partnership business. Some money was exchanged between them as personal loan. Thereafter, the respondent no. 2 became interested to invest money in some other scheme. After some time, differences arose between the petitioner no. 1 and 2 and respondent no. 2. Thereafter, respondent no. 2 had filed a complaint against the petitioner with the police for cheating and criminal intimidation. On 18.10.2022, learned Metropolitan Magistrate directed the police to register FIR against the petitioner and submit its report to the Court. Thereafter, petitioner preferred the revision petition against the order dated 18.10.2022 passed by learned Magistrate and vide order dated 03.02.2023, the learned Special Fast Track Court dismissed the revision petition filed by the petitioners.

6. It is stated by learned counsel for petitioners that the dispute in this case is civil in nature as well as the petitioners herein had already filed a complaint against the respondent no. 2. It is now stated that present FIR has been ordered to be registered on the complaint which was filed after the complaint filed by the present petitioners under section 200 Cr.P.C which is still pending adjudication before the concerned Trial Court. It is, therefore, stated that the impugned order be quashed.

7. Learned APP for the State, on the other hand, states that investigation is required and there is no infirmity in the impugned order.

8. I have gone through the order passed by learned Metropolitan

Magistrate-05, South West, Dwarka Courts, South, Delhi, which reads as under:

“In view of the settled law as held by the Hon'ble Supreme Court in the case of 'Lalita Kumari Vs. Government of U.P. & Others, 2014 (2) SCC 1, SHO is duty bound to register the FIR on disclosure of cognizable offence.

Accordingly, application is allowed. SHO, PS Vikas Puri is directed to register a FIR and file the compliance report on the next date of hearing.

Put up for report of compliance on 14.12.2022.

9. The order dated 03.02.2023 passed by learned Additional Sessions Judge, Special Fast Track Court (RC) South West District, Dwarka Courts, New Delhi is as under:

“In the peculiar facts of this case, as detailed here-in-above, this Court does not find any palpable absurdity or perversity in the impugned order of the Ld. Trial Court. No ground exists, which calls for interference in the discretion exercised by the Ld. Trial Court in allowing the application under Section 156(3) Cr.P.C and issuing directions for registration of FIR.

For the foregoing reasons, present revision petition, filed by the revisionist/complainant is hereby dismissed and the impugned order dated 18.10.2021, passed by Ld. Trial Court is upheld.”

10. I have also given my consideration to the arguments of learned counsel for petitioner as well as learned APP for the State.

11. I have gone through the order dated 18.10.2021 passed by learned Metropolitan Magistrate and order dated 03.02.2022 passed by learned Additional Sessions Judge. I have also gone through the complaint filed in this case wherein specific allegations have been levelled against the petitioner regarding commission of offence under Section

193/194/195/420/406/506/34 of IPC. It is also clear that some money transactions were also mentioned in the original complaint which need investigation. It is not yet known as to whether the investigating agency will file charge-sheet or a closure report in this case. In case the allegations are found to be civil in nature, it is for the investigating agency to file a closure report and in case the petitioner will be aggrieved thereafter, he may approach the appropriate Court.

12. From bare perusal of the compliant, this Court is not persuaded to reach to a conclusion that the allegation levelled against the petitioners are absurd, highly improbable or that no prudent person can ever reach a conclusion that there is no sufficient ground for proceeding further in the case.

13. At this stage, as per law, this Court cannot throttle the proceedings or investigation, when the investigation has not yet been carried out completely.

14. Finding no merit, the instant petition stands dismissed.

15. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 10, 2023/kss