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

+ **CRL.M.C. 1625/2022**

AMARDEEP SINGH

..... Petitioner

Through: Mr. Shiv Kumar, Mr. Sanjay Ghose,
Mr. Aman Jain and Mr. Rajender
Sharma, Advs.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Amit Sahni, APP and SI Suresh
Kumar, PS Vasant Vihar.
Mr. Sanjoy Ghose, Sr. Adv. with Mr.
Pradeep Sharma, Adv for R-2.

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Date of Decision: 28.08.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of case FIR No. 1653/2015 dated 03.11.2020 under Sections 420/34 IPC registered at PS Vasant Vihar, South-West District. The charge sheet has also been filed.
2. The present FIR was lodged on the complaint of Respondent No. 2/P.V. Vora wherein it was alleged that Ms Niharika Gautam and her

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associates defrauded and cheated him for a valuable sum of Rs. 1 crore 50 lakhs. The accused had known the complainant since the year 1995 and had approached the complainant in August 2011 representing M/s. Tamanna Realtors Pvt. Ltd. The complainant was working as a managing director at the J.P Hotels at V.P Vasant continental where Ms. Niharika along with her husband used to visit the complainant in connection with the assignment of marketing and promotion of the company business. The accused Ms Niharika approached the complainant that M/s. Tamanna Realtors Pvt. Ltd. which is having a plot of land in Safdarjung on which the company proposes to build a four-storey building and the complainant agreed to buy the said property at Rs. 7 crores with 3% brokerage to her. However, during the investigation, it was found that no property of such an address existed.

3. Learned Additional Session Judge vide order dated 22.09.2021 cancelled the bail granted on merits taking into account the petitioner's conduct.
4. Aggrieved of the order dated 22.09.2021 passed by learned ASJ, the present petitioner filed CRL.M.C. 2414/2021 and this court vide order dated 23.02.2022 observed that despite the order dated 22.09.2021 of the learned ASJ cancelling the bail and the order not being stayed by this court, the petitioner did not surrender in custody till date. However, thereafter the petitioner withdrew this petition on 29.04.2022.
5. It is also pertinent to mention here that earlier the petitioner has filed CRL.M.C. 2638/2021 for quashing of the present FIR which was



dismissed by a coordinate bench of this court vide a detailed order dated 23.02.2022.

6. At the outset, Mr. Sanjay Ghose, learned senior counsel for the complainant submitted that initially the petitioner was granted bail by the learned MM vide order dated 25.04.2018. The complainant aggrieved by this filed an application for cancellation of bail which was cancelled by the learned ASJ vide order dated 22.09.2021..
7. It has further been submitted that the petitioner is seeking quashing of the present FIR on the ground that the complainant had never met the petitioner nor has allured the complainant at any point of time and the petitioner was also even travelling abroad from 13.10.2011 to 08.07.2012 when the allegations were made against the co-accused Niharika Handa. The complainant cannot be merely held liable because he is the chairman of the company. The complainant did not even visit the site of the building proposed to be constructed and was negligent of the address. The complainant did not exercise due diligence as a purchaser of the property. The company has not even made the accused in the impugned FIR.
8. Learned counsel for the petitioner submits that the averments in both the quashing petitions are totally different wherein the main contentions in the first quashing petition was that the directors cannot be held vicariously liable in criminal cases whereas in the present petition, the petitioner contended that once a transaction is made with M/s Tamanna Realtors Pvt. Ltd., the company being a separate legal



entity, unless and until the company has been made a co-accused and in view of the same the current quashing petition should be considered maintainable.

9. Learned counsel for the respondent has vehemently opposed the contentions made by the counsel for the petitioner and submitted the quashing petition is liable to be rejected as the petitioner has already exhausted the remedy once and cannot exercise the same remedy twice.
10. The petitioner seems to be misusing the process of law. It is strange that despite bail being cancelled and the earlier petition to quash the present FIR being dismissed by this court, the petitioner has again filed this petition. Therefore, it is an abuse of the process of the court.
11. The Supreme Court in ***State of Karnataka v. L. Muniswamy (3JB)*** (1997) 2 SCC 699 inter-alia held that: -

“the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed.”

12. Section 482 Cr.P.C. confers jurisdiction upon the High Court to issue directions to prevent abuse of the process of any court or otherwise to secure the ends of the justice. It is a settled proposition that the power under Section 482 Cr.P.C. is to be exercised sparingly only to prevent the abuse of process of the court or otherwise to secure the ends of the justice. The power under Section 482 Cr.P.C. is the inherent power and there cannot be any inflexible route which may govern the exercise of



inherent jurisdiction. However, though the powers possessed by the High Court under Section 482 Cr.P.C. are very wide but the same has to be exercised with caution.

13. I consider that the present petition is classic case of abuse and misuse of the process of law.
14. In view of the submissions, the present petition is dismissed with a cost of Rs. 50,000/- to be deposited at the Delhi High Court Advocate Welfare Fund.
15. Adverting to the contentions made by the learned counsel for the parties and along with the above observation, the present petitions stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 28, 2023/AR

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