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

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Reserved on:01.08.2023
Pronounced on:09.08.2023

+ W.P.(CRL) 2160/2023 & CRL.M.A. 20153/2023

ANUBHAV MITTAL & ORS. Petitioners

Through: Mr. Tushar Agarwal and Mr.
Arun Kumar, Advocates

versus

STATE NCT OF DELHI & ANR. Respondents

Through: Mr. Amol Sinha, ASC for the
State with Mr. Kshitiz Garg.
Mr. Ashvini Kumar and Ms.
Chavi Lazarus, Advocates and
SI Bijender Singh, P.S. Hauz
Qazi, Delhi

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C') has been filed on behalf of petitioners seeking quashing of FIR bearing no. 49/2019, dated 01.04.2019, registered at Police Station Hauz Qazi, Delhi for offences punishable under Sections 420/406 of Indian Penal Code, 1860 ('IPC') and all subsequent proceedings emanating therefrom.



2. Briefly stated, the facts of the present case are that the present FIR was registered pursuant to an order under Section 156(3) Cr.P.C. passed by the concerned Magistrate, and as per the version of complainant Md. Sajid, he had been deceived/allured by the accused company on pretext that if he would paid them Rs.57,500 as cost of a package, he would be given access to a web portal namely www.socialtade.biz and an opportunity to work from home to earn money by clicking 125 daily links on website or Facebook pages. It was assured to the complainant that on each click on the link, he would receive Rs.5/- after deducting TDS. On this belief and assurance given by the accused company, the complainant had deposited Rs.2,30,024/- through NEFT for purchase of four such memberships/packages from the company, in December, 2016. However, it was alleged that complainant had received a total of Rs.17,379/- from the use of the web portal till 24.01.2017, after which the web portal had become inactive.

3. Learned counsel for the petitioner argued that the complainant has filed an affidavit stating that he seeks to withdraw his complaint and does not wish to pursue the matter further. It was further argued that petitioner no. 1 Anubhav Mittal has been in judicial custody since 12.02.2018, and petitioner no. 2 Ayushi Aggarwal has been in judicial custody since 12.02.2018, and till date no action has been taken by the Investigating officer even after lapse of four years from the date of registration of present FIR.

4. Learned ASC for the State, on the other hand, argued that petitioners are in judicial custody in Lucknow Jail and there are



several other FIRs pending against them. It was also stated that an amount of Rs 450 crores was found in the bank account of the petitioner and they all were engaged in releasing ponzi schemes for inducing multiple victims and deceiving them of their money. Learned ASC further argued that the present case is not a fit case for quashing as the affidavit filed by the complainant itself reveals the modus operandi of the petitioners and the affidavit does not mention that matter has been settled between the parties or that he has received back his money.

5. This Court was also not inclined to allow the present petition, however, the learned counsel for petitioner thereafter insisted that the matter be heard on merits.

6. On merits, learned counsel for the petitioner argued that the petitioners had launched the web portal www.socialtade.biz as the directors of the company i.e. M/s Ablaze Info Solutions Private Limited, which was a social media exchange and web traffic exchange portal that allowed individuals or businesses to promote their web and social media pages, (referred to as Digital Marketing Campaign) by purchasing digital marketing packages from the portal. It was argued that an FIR bearing no. 93/2017 was registered on complaint of one Dinesh Singh at PS Surajpur, G.B. Nagar, Uttar Pradesh, after which, the UP Police had frozen the bank account of the company, and hence the company could not disburse the scheduled weekly payment of around Rs. 240 crore. It was further argued that this news was circulated in the media claiming that the company had cheated its customers and misappropriated funds, and the complainant was thus



influenced by this news, which led to the filing of the present complaint.

7. This Court has heard arguments addressed by both sides and perused the material on record.

8. As per the case of prosecution, the complainant in the present case was deceived by the petitioners by promising access to a web portal i.e. *www.socialtade.biz* and earning money by clicking 125 links daily on the website or Facebook pages. It was assured to the complainant that Rs. 5/- per link would be provided to him, and believing the same, the complainant had paid Rs.2,30,024/- to the accused company, and had purchased four memberships. Initially, the complainant had received Rs.17,379/- from the accused company, details of which have been placed on record before this Court, but the web portal had become inactive afterwards.

9. This Court further notes that as per investigation, the Articles of Association of the accused company reflected one of its business objectives to carry on the business of software development, computer designing, job works, sale retail of interior decorators, etc., but their conduct revealed that the intention on their part was to cheat innocent people, especially those seeking easy money with minimal investment. Petitioner no. 1 in the present case, i.e. Anubhav Mittal is one of the first directors of the accused company.

10. In the facts and circumstances of the case, this Court deems it fit to take note of observations of Hon'ble Apex Court in regards to quashing of FIR under Section 420 IPC in case of *Rekha Jain v. State of Karnataka* 2022 SCC OnLine SC 568, whereby it was held as under:



“8. ...There must be a dishonest inducement by the accused. As per Section 420 of IPC, whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, can be said to have committed the offence under Section 420 of IPC. Therefore, to make out a case against a person for the offence under Section 420 of IPC, there must be a dishonest inducement to deceive a person to deliver any property to any other person...”

11. As far as principles for quashing of FIR are concerned, the same have been laid down by the Hon’ble Apex Court in case of ***State of Haryana v. Bhajan Lal*** 1992 SCC (Crl) 426, which are extracted herein-under for reference:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.



4. Where the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

12. In *Neeharika Infrastructure v. State of Maharashtra* 2021 SCC OnLine 315, the Hon’ble Apex Court after analysing the judicial precedents, had laid down the following principles of law with respect to quashing of criminal proceedings:

“...57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the “rarest of rare cases”. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been



formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court; xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to



quash the FIR/complaint; and xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR..."

13. Thus, in view of the foregoing discussion, and keeping in mind the principles for quashing as laid down by Hon'ble Apex Court, this Court does not deem it appropriate to quash the FIR, especially since it is a multi victim cheating case where huge amount of cheating money was found in the bank account of applicant herein. Further, multiple innocent persons have been cheated of their hard earned money, therefore, no ground for quashing of FIR is made out.

14. Accordingly, the present petition alongwith pending application stands dismissed.

15. It is, however, clarified that the observations made hereinabove are prima facie in nature, solely for the purpose of deciding present petition, and the same shall not tantamount to an expression of opinion on the merits of the case.

16. The judgment be uploaded on the website forthwith

SWARANA KANTA SHARMA, J

AUGUST 9, 2023/zp