IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37446-2024
Date of Decision : **September 19, 2024**

Hasan Ali and another .....Petitioners

VERSUS

UT, Chandigarh and another .....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Ankur Malik, Advocate for the petitioners.
Mr. Manish Bansal, PP for UT, Chandigarh with
Ms. Diksha Sharma, Advocate.
Mr. Vikramjit Singh, Advocate for respondent No.2.

KULDEEP TIWARI, J.

1. Through the instant petition filed under Section 482 Cr.P.C., prayer is made for quashing of FIR No. 0032 dated 10.4.2023, under Sections 419, 420, 120-B IPC, registered at Police Station Cyber Crime, Chandigarh on the basis of compromise dated 23.7.2024 (Annexure P-2) and all the consequential proceedings arising thereof.

2. The instant FIR has been registered on a complaint made by Dr.Karanti Kaushik-respondent No.2, where she alleged that she had an Instagram account with the name of doctor karenn and on the said account, this she started receiving messages from an unknown account namely Devika_mitthal_official regarding trading, which she ignored all the time. On 15.03.2023, she responded on those messages and conversation started between them. After this Devika Mitthal (allegedly) told the complainant that her company invested in crypto currency and claimed that her company can

double her amount within an hour. Then allegedly told her that if she will invest Rs. 10,000/- then she can make Rs. 30,000/- and sent a chart to the complainant to show that how they doubled the investment within an hour. Therefore, complainant believed and got ready to pay and therefore, transferred an amount of Rs. 20,000/- on dated 15.03.2023, in account no.922010067277922 of Axis Bank. Further, again the accused asked for money in the name of withdrawal agreement scheme. According, to this scheme she can only withdraw when the deposit investment amount will be higher than Rs.1,00,000/-, again accused asked for Rs. 30,800/- and this time also same amount was transferred by the complainant in the same account which was earlier provided by the accused. Thereafter, another in account no.8847617993 of Kotak Mahindra Bank and again asked for Rs.9000/- to be deposited and this time also complainant transferred the asked for amount. When the complainant asked for withdrawal, the accused blocked her. In this way the complainant lost an amount of Rs. 59,800/- of her hard-earned money. The matter was thoroughly investigated and during the course of investigation, the letters were sent to banks to obtain KYC and bank statements of alleged accounts and the same was received in which it revealed that bank account number 922010067277922 of Axis Bank was found in the name of Prashant Kumar son of Deo Kumar Prajapati, resident of Temple, Gram Taranak, PO Tarankho, Thana Dhanwara, near School, Girdhi, Jharkhand. A letter was also sent to Instagram to obtain the recovery number, recovery email id and login, log out IP details against the alleged Instagram

ID of Devika_mitthal_official. In the reply of Instagram, it came to light that the recovery of email id was suhanimalik7860@gmail.com and account recovery mobile number 918585883713 was found against alleged Instagram ID Devika_mittal_official. After this, a request email was sent to Internet Service provider (ISP) Airtel to obtain CAF and CDR of alleged mobile number 918585883713 and the same was found in the name of Kartick Chandra Pradhan son of Rabindernath Pradhan, resident of Purbatalla, Tikashi, Purba Medinipur, West Bengal. The CDR of alleged mobile number was analysed and found that the alleged mobile number made voice calls only with mobile number 91-9051378498, therefore, the CAF and CDR was obtained from internet service provider (ISP) Airtel and found this mobile number is registered in the name of Hasan Ali (present petitioner).

3. During investigation, the CDR was duly analyzed and it came to light that the said number were frequently travelling between Dubai (UAE) and Thailand. After this, the IP Login Logouts were also analyzed of alleged Instagram ID Devika_mitthal_official and found the last IP address 2409:400:005c:173e:7196:20b:3d6fe2d3 was associated with the alleged Instagram account Devika_mitthal_official. After this particular IP checked and found that it was affiliated with JIO and in this regard an email was sent to JIO for subscriber details of this IP and the reply of JIO regarding this IP was subscribed by mobile number 919903232944 of Reliance Jio. Again CAF & CDR were obtained in which mobile number identified in the name of Hasan Ali (present petitioner) and after analysing cell Ids in CDR of

alleged mobile number 919903232944, it was mainly active in the area of Bata Nagar, 24 Parganas, (W.B.). A letter was sent to google to get IP details and other particulars of alleged Gmail IDsuhanimalik7860@gmail.com through which the above alleged Instagram ID in the name of Devika_mitthal_official was created/associated. Further reply from google had been obtained and it was found that the aforesaid Gmail account was accessed through mobile number 919903232944. During scrutinized of details it was revealed that is the same number through which the alleged Devika_mitthal_official was created.

4. That after taking necessary permission from senior officer, a raid was conducted in the area of PS Mahes Tala W.B. on 24.01.2024, after giving information and taking police assistance from local Police Station Mahes Tala, according to the location, Hasan Ali (present petitioner) was found present and Mobile bearing no. 917439392498 was also found from his possession along with two mobile phones which was used in this crime. The present petitioner disclosed that he was doing all this for more than one year. He further disclosed that he invested all this money (cheated amount from several people) into his father's company (wood and art gallery), which is in Dubai. So, Hasan Ali (present petitioner) was arrested according to police procedure and information was given to his father. After this, arrested person was produced before the Ld. CJM, Alipore for transit remand. However, the Ld. CJM Alipore rejected the prayer of the police and granted the conditional bail to the petitioner for 04 weeks and released him on interim bail of

Rs.25,000/- with sureties of Rs. 12,500/- each by directing him to appear before the concerned court within four weeks from the date of his release and further directed him to submit the compliance report within 10 days of his appearance to the Court of Ld. CJM, Alipore. However, the petitioner did not comply with the above said order dated 24.01.2024 passed by the Ld. CJM, Alipore.

5. Upon notice, the learned State counsel filed the reply to the instant petition.

6. It is important to note that the petitioner was arrested on 24.1.2024 by the Chandigarh Police from West Bengal. Thereafter he was produced before the learned Chief Judicial Magistrate, Alipore for transit remand. However, the transit remand was rejected by the learned Chief Judicial Magistrate concerned and he was directed to be released on interim bail. The petitioner was directed to appear before the concerned Court within four weeks from the date of his release. Further-more, the petitioner was directed to submit the compliance report within 10 days of his appearance to the court of Chief Judicial Magistrate concerned but instead of appearing before the learned trial Court concerned in compliance to the interim relief granted to the petitioner by the learned Chief Judicial Magistrate, Alipore, he straightaway filed the instant petition seeking quashing of the FIR (supra) on the basis of compromise.

7. Learned counsel for the petitioner has placed reliance upon the judgment passed by a co-ordinate Bench of this Court in "**Abhishek Tiwari**

and others Vs. State of U.T., Chandigarh and another", CRM-M-27614-2024, decided on 22.8.2024.

8. The learned State counsel submits that infact it is a deep root cyber crime, where not only the present complainant is a victim but there may be other victims and the petitioner is required for deep investigation, however, he is not joining the investigation.

9. The Hon'ble Supreme Court has laid down the principles of quashing of FIR on the basis of compromise in the case of "**Parbatbhai Aahir Vs. State of Gujarat" (2017) 9 SCC 641**. The relevant para is extracted hereinafter:-

> "*16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.*
>
> *16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and*
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> *16.10. There is yet an exception to the principle set out in propositions16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance…"*
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> *(Emphasis supplied)*
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> *15. A bare reading of the FIR, details of which have already been discussed in the preceding paragraphs, prima facie reveals commission of cyber-crime/cyberfraud whereby the amount was surreptitiously debited*

from the bank account of complainant while he was having a conversation with an individual presenting himself as a customer care executive, who had called the complainant from a mobile number. It remains undisputed that the said sum which had got debited from the complainant's bank account in Delhi had found its way into a bank account held by the petitioner in Ahmedabad, Gujarat. It is also not the case of either party that they were known to each other in past or that there was any history of previous transactions between them.

16. In today's digital era, cyber-crimes are proliferating at an alarming rate, leaving a trail of victims in their wake. Neither are cyber- criminals bound by restrictions of borders due to their global reach, nor do they discriminate among their victims, thereby targeting the elderly, the young, the businesses as well as the governments in the digital landscape. The consequences of cyber-crimes go beyond individual boundaries, impacting numerous unsuspecting victims. As brought to the knowledge of this Court during the course of arguments, the investigation so far has revealed that huge amount of money, totalling Rs. 28.17 crores has been credited to the bank account of present petitioner and it is to be investigated whether this amount also has been obtained through such illegal and fraudulent means and whether there are other victims of such cyber-fraud. The gravity of such allegations cannot be undermined, as they not only jeopardize the financial security and trust of individuals on financial payment gateways/platforms, but also potentially expose the broader public to similar threats."

10. The co-ordinate Bench of this Court in case titled as "**Abhishek Tiwari (supra)**, while following the above laid down principles of the Hon'ble Supreme Court, has also declined the relief of quashing of FIR on the basis of compromise in a case of cyber crime. The relevant para reads as under:-

"12. In the present case, it is apparent from the allegations levelled by respondent No. 2/complainant that the respondent No. 2 had received several calls as well as e-mails from different persons and a false promise

was made to him to provide him employment in some company. Even, the complainant had paid a total amount of Rs.6,45,224/- to the fraudsters/petitioners in different accounts, but no job was provided to the respondent No. 2/complainant. Even, the matter was investigated by the police and sufficient documentary evidence was collected by the police, to show the complicity of the petitioners in the crime. Even, no doubt the parties have entered into a compromise in the present case, however, from the careful examination of the material placed on record by the State, it becomes very clear that the case extends beyond the realm of mere private dispute between certain individuals. Rather, it is apparent from the allegations that the modus operandi adopted by the petitioners as is discernible from the contents of the FIR, indicates towards the commission of cyber fraud and there is a possibility that more and more victims had fallen prey to such cyber frauds and the investigation is being conducted by the police further in this regard. Thus, at this stage, it would not be appropriate to quash the FIR even on the basis of compromise."

11. It is the positive case of the prosecution that other more victims may be surfaced in case the petitioner joins the investigation, and therefore, the custodial interrogation of the present petitioner is very much required.

12. In view of the above facts and circumstances, this Court is of the view that the petitioner does not deserve the asked for relief, therefore, the instant petition is, hereby, **dismissed**.

(KULDEEP TIWARI)
JUDGE

September 19, 2024
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No