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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1943/2024

PRIYANKA BHARDWAJ SINDHU

.....Petitioner

Through: Mr. Manish Pratap Singh,
Adv.

versus

STATE NCT OF DELHI & ANR.Respondents

Through: Mr. Manoj Pant, APP for
the State.

SI Vinay, PS
Keshavpuram.

Mr. Kapil, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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13.11.2024

CRL.M.A. 7454/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 1943/2024

3. The present petition is filed seeking quashing of FIR No. 863/2023 dated 23.11.2023, registered at Police Station Keshav Puram for offences under Sections 420/34 of the Indian Penal Code, 1860 ('**IPC**')
4. The FIR was registered on a complaint given by Respondent No. 2/complainant. It is alleged that the petitioner and her associates had taken money on the pretext of providing services for obtaining work permit visa. It is alleged that in addition to Respondent No. 2, fourteen other persons had also applied to the petitioner and her associates to obtain work permit Visa, and had made payments.
5. The learned counsel for the petitioner submits that the petitioner has not cheated Respondent No. 2. He submits that the allegations against the petitioner, even at the highest, is that the petitioner received a sum of ₹2,00,000/- from Respondent No. 2.



He submits that the petitioner was not able to process the visa since Respondent No. 2 failed to give all the requisite documents to the petitioner. He consequently submits that Respondent No. 2 was not able to obtain visa from the petitioner since Respondent No. 2 never gave his passport to the petitioner to get his visa affixed.

6. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the quashing of the FIR. He submits that the matter is still pending investigation. He submits that the charge sheet in the present matter could not be filed since the petitioner was absconding, and was arrested only on 06.11.2024.

7. This Court *vide* order dated 29.02.2024 dismissed the pre-arrest bail application filed by the petitioner. This Court observed that the petitioner is a habitual offender. It was noted that multiple FIRs had been registered against the petitioner by different complainants. It was noted that the complaint filed by Respondent No.2 further manifested that the petitioner and other co-accused persons had obtained money from fourteen other persons in addition to the complainant.

8. It was noted further that the petitioner had shared the photographs of three work permit visas to the complainant's father-in-law, and the same were subsequently found to be fake.

9. The Hon'ble Apex Court in ***State of Karnataka v. M. Devendrappa* : (2002) 3 SCC 89**, had held that the High Court, while exercising power under Section 482 of the CrPC, should be cautious and ought not to quash FIRs in a routine manner. The power has to be exercised sparingly and that too in rarest of rare cases. The Hon'ble Apex has also given some illustrative categories which are reproduced as under:



“(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 FIR 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 FIR 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 Act concerned (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 Act concerned, 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.”

10. The arguments advanced by the learned counsel for the petitioner, at this stage, appear to be in the nature of defence. Whether the petitioner has cheated Respondent No. 2 or not would be tested during the course of trial, after the parties have led their evidence. The same cannot be a ground to quash the FIR



especially in the light of the serious allegations levelled against the petitioner.

11. From a bare perusal of the FIR, the petitioner appears to be running a racket where innocent persons are deceived in the name of providing work visas. It is pertinent to note that this Court *vide* order dated 29.02.2024, while dismissing the pre-arrest bail application filed by the petitioner noted that the petitioner is *prima facie* the beneficiary of the amount.

12. While the veracity of the allegations levelled against the petitioner would be tested during the course of trial, this Court cannot lose sight of the fact that the matter is still at the initial stages of investigation. The charge sheet is yet to be filed in the present case.

13. It is informed that the petitioner was declared proclaimed person on 23.08.2024, and has been arrested only on 06.11.2024. The investigation, therefore, could not proceed and the filing of the charge sheet consequently delayed for the reasons of petitioner absconding.

14. In the present case, serious allegations have been levelled against the petitioner which are in the nature of cognizable offence. From a perusal of the FIR, at this stage, it does not appear that the allegations against the petitioner are without any merit.

15. In view of the aforesaid, this Court does not deem it expedient to quash the FIR against the petitioner.

16. The present petition is accordingly dismissed.

AMIT MAHAJAN, J

NOVEMBER 13, 2024