



2024:DHC:3594



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 02.05.2024***

+ **CRL.M.C. 2620/2022 & CRL.M.A. 10926/2022**
SHRI KARRAR HUSAIN KHAN Petitioner
Through: Mr.Sachin Jain, Mr.Ajay
Kumar Agarwal, Advs.

versus

N C T OF DELHI AND ANR. Respondents
Through: Ms.Priyanka Dalal, APP with
SI Kavish Rana.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'CrPC') praying for quashing of FIR No.0135/2021, registered at Police Station: Laxmi Nagar, East-District, Delhi for offence under Sections 420/406/120B of the Indian Penal Code, 1860 (in short, 'IPC').

Case in the FIR

2. The above FIR has been registered on a complaint of Mr.Pankaj Kumar Singh stating therein that he had come in contact with one Sh.Sudhir Kumar Dubey, an old acquaintance of his, who informed him that a private company extends loan of Rs.50 crores at interest of 7% per annum with loan period of 8 years.

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Sh.Sudhir Kumar Dubey introduced the complainant to the petitioner herein as also to another person- Sh.Anand Kumar Singh. The complainant spoke to them also at Kolkata. Another meeting was thereafter held on 25.10.2020 at Hotel Taj Man Singh, Delhi, wherein all the above named persons were also present. In the conversation, Sh.Sudhir Kumar Dubey introduced the complainant to Sh.Govind Jha as the main person and in-charge of the company which will give the loan. Mr.Govind Jha told the complainant that the company would extend the loan to the complainant based on the conditions that are mentioned in the FIR. He demanded that the old back dated stamps from 5 to 6 different states of a value of 3% of the loan amount shall have to be procured.

3. It is further stated that later, the applicant along with the above named persons met Sh.Pandey Jee, owner of M/s Gyatri Constructions who required a loan at Mumbai. On the representation of Mr.Govind Jha that the loan shall be easily arranged for, time was sought by the complainant to make arrangement for the payment of the 3% advance that was the condition for extension of the loan.
4. The complainant asserts that this payment was made over a period of time and to the persons named in the FIR. They later travelled to Baroda and were shown the old stamps which were then kept in bag, key whereof was handed over to the complainant. They travelled from Ahmedabad to Chennai by an aircraft however, when they landed at Chennai Airport, the bag



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containing the old stamps was not traceable. Later, the complainant came to know that this was a well planned conspiracy to cheat the complainant of the amount that had been paid in the terms of loan conditions.

Submissions of the learned counsel for the petitioner

5. The learned counsel for the petitioner submits that apart from stating that the petitioner was also introduced to the complainant by the accused Sh.Sudhir Kumar Dubey, there is no allegation of any amount being paid to the petitioner or the petitioner having made any representation to the complainant, and that no specific role in the entire transaction has been ascribed to the petitioner.

Submissions of the learned APP and the learned counsel for the complainant

6. On the other hand, the learned APP and the learned counsel for the complainant submit that the main accused- Sh.Sudhir Kumar Dubey has introduced the petitioner in relation to the proposed extension of loan. They submit that the complainant has further stated that they also were present and spoke to the complainant at Kolkata. The petitioner was also present at Taj Man Singh Hotel at Delhi, and was present also at Mumbai when the talks for extension of loan to M/s Gyatri Constructions were being held with its owner Sh.Pandey Jee.
7. They submit that therefore, role of the petitioner needs to be thoroughly investigated and the FIR cannot be quashed at this



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stage.

Analysis and Conclusion

8. I have considered the submissions made by the learned counsels for the parties.
9. The Supreme Court has repeatedly cautioned that the power under Section 482 of the Cr.P.C. should not be exercised to scuttle investigation at a preliminary stage. This Court should not enter into the authenticity or otherwise of the allegations made in the complaint, as these are matters best to be left for the investigating agency to investigate on. I may herein refer to the judgment of the Supreme Court in ***State of Haryana v. Bhajan Lal***, 1992 Supp (1) SCC 335, wherein the Supreme Court had held that the power to quash the FIR at an initial stage must be exercised sparingly and only in a rarest of rare cases.
10. In ***Kaptan Singh v. State of U.P.***, (2021) 9 SCC 35, the Supreme Court again reiterated that:-

“9.2. In Dhruvaram Murlidhar Sonar, (2019) 18 SCC 191 after considering the decisions of this Court in Bhajan Lal 1992 Supp (1) SCC 335, it is held by this Court that exercise of powers under Section 482 CrPC to quash the proceedings is an exception and not a rule. It is further observed that inherent jurisdiction under Section 482 CrPC though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 CrPC. Similar view has been expressed by this Court in Arvind



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Khanna, (2019) 10 SCC 686 and in XYZ v. State of Gujarat, (2019) 10 SCC 337, referred to hereinabove.”

11. In ***Neeharika Infrastructure (P) Ltd. v. State of Maharashtra***, (2021) 19 SCC 401, the Supreme Court has held as under:

“12.10. In the recent decision of this Court in Skoda Auto Volkswagen India (P) Ltd. v. State of U.P., (2021) 5 SCC 795, it is observed in paras 40 to 42 as under:

“40. It is needless to point out that ever since the decision of the Privy Council in King Emperor v. Khwaja Nazir Ahmad, 1944 SCC OnLine PC 29, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the court will not permit an investigation to go on.

41. As cautioned by this Court in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the 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 or in the complaint. In S.M. Datta v. State of Gujarat (2001) 7 SCC 659 this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule.

42. In S.M. Datta (2001) 7 SCC 659, this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the



jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.”

13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in Khwaja Nazir Ahmad 1944 SCC OnLine PC 29, the following principles of law emerge:

13.1. 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.

13.2. Courts would not thwart any investigation into the cognizable offences.

13.3. 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.

13.4. 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 482CrPC 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.)

13.5. 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.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.”

12. Applying the principles laid down by the Supreme Court in the above catena of judgments and considering the facts and



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circumstances of the present case, in my view, the petitioner has not been able to make out a case that would warrant quashing of the FIR at the nascent stage and in the bud, as far as the petitioner is concerned. The role of the petitioner would need to be investigated. As noted hereinabove, there are specific allegations made against the petitioner of him attending the meetings at various places along with the main accused Sh.Sudhir Kumar Dubey. What is his exact position or role in the entire alleged conspiracy, can be determined only after thorough investigation.

13. Therefore, I find no merit in the present petition. The same is dismissed.
14. Needless to state that any observation made in the present order shall in no manner influence the investigation or eventual trial.

NAVIN CHAWLA, J

MAY 2, 2024

RN/ss

Click here to check corrigendum, if any