



2024:DHC:4327



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

Date of decision: 27.05.2024

+ CRL.M.C. 4334/2024

ROHIT JAIN

..... Petitioner

Through: Mr.Sumit Kumar Khatri, Adv

versus

GOVT. OF NCT OF DELHI. & ANR. Respondents

Through: Mr.Aman Usman, APP with SI
Maya Shankar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CRL.M.A. 16467/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 4334/2024 & CRL.M.A. 16468/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for the quashing of FIR No.12/2024 registered at Police Station: Preet Vihar under Section 406 of the Indian Penal Code (in short, 'IPC').

3. The above FIR has been registered on the complaint of the respondent no. 2, who states that the petitioner and the respondent no.2 have known each other for the last 15-16 years. On 20.01.2023, the petitioner had come to the house of respondent no.2 and requested



2024 : DHC : 4327



to borrow his BMW car bearing Registration No. DL-12CT-5454, Engine No. 0053Y292, and Chassis No. WBA5Z3707LYDO5374, as the petitioner had to go for a wedding. The petitioner promised that he would return the vehicle within 2-3 days. Earlier also the petitioner had been borrowing the car of the respondent no.2 and used to return the same in time. The respondent no.2 states that based on this request, he handed over the keys of the vehicle to the petitioner. He further states that on the next day, the petitioner came to him and told him that the keys of the vehicle were not traceable as the children may have kept them somewhere. Thereafter, on one pretext or the other, the petitioner avoided handing back the vehicle to the respondent no.2. After a few days, the petitioner told the respondent no.2 that he has several criminal cases against him and that the respondent no. 2 should forget about his car. The petitioner also threatened the respondent no.2 to sign some papers, without any protest, relating to the car that he will be sending, otherwise, he and his family members shall be killed. The respondent no.2 states that he had taken a loan for the said car and therefore, he requested the petitioner to send the car back. However, the petitioner also threatened him that he would use the vehicle for some offence. Thereafter, the respondent no.2 made a complaint in this regard to the DCP, East, and to the SHO Police Station Preet Vihar, Delhi. The petitioner then entered into a Settlement Agreement dated 18.08.2023 with the respondent no.2, to have the vehicle transferred in his own name and to pay the balance loan to the bank. However, the petitioner did not pay any amount to the bank, but, got the vehicle transfer documents signed from the



2024 : DHC : 4327



respondent no.2. Since then, the petitioner is refusing to pay the money and is also not returning the car.

4. The learned counsel for the petitioner submits that the above FIR is totally false. He submits that it is correct that the petitioner and the respondent no.2 have known each other for the last many years, however, it is only based on this that the petitioner purchased the car in the name of the respondent no.2. He submits that when the respondent no.2 started to make the complaint, the parties, that is, the petitioner and the respondent no.2, entered into a Settlement Agreement dated 18.08.2023, wherein the petitioner agreed to pay the balance instalment of the loan for the period of March, 2023 to August, 2023, and to further pay a sum of Rs. 1 lac to the respondent no.2. He submits that the payment in terms of the said agreement were duly made by the petitioner to the bank as also to the respondent no.2, however, thereafter, the respondent no.2 refused to sign and give the No Objection Certificate for the transfer of the vehicle. He submits that rather it is the respondent no.2 who has committed a breach of trust and that the respondent no.2 has thereafter, even sold the vehicle.

5. On the other hand, the learned APP submits that the investigation into the complaint made by the respondent no.2 is on-going. The learned Additional Sessions Judge-03, East, Karkardooma Courts, Delhi (in short, 'ASJ'), by the order dated 15.02.2024 passed in Bail Appln. 118/2024, has also rejected the prayer for grant of Anticipatory Bail under Section 438 of the Cr.P.C. to the petitioner herein, also observing that the petitioner is involved in several other cases including FIR No.1305/2020 PS Kalyanpur, Kanpur, UP; FIR



2024 : DHC : 4327



No. 162/2020 PS Indrapuram, Ghaziabad, UP; FIR No. 281/2020 PS Nawabgunj, Kanpur, UP; FIR No. 870/2022 PS Mussorie, Ghaziabad, UP; FIR No.1296/2020 PS Kavi Nagar, Ghaziabad, UP; and FIR No.1314/2023 PS Mansarover, Jaipur, Rajasthan. The learned ASJ also noted that the invoice of the car in question is in the name of the respondent no.2 and that the vehicle is yet to be recovered.

6. He submits that the vehicle has since been recovered from the petitioner.

7. He further submits that the plea of the petitioner that he had purchased the vehicle in the name of the respondent no.2, is in any case, hit by Section 3 of the Prohibition of Benami Property Transactions Act, 1988 (hereinafter referred to as the 'Benami Transaction Act'). He further submits that the plea taken by the petitioner in the present petition is anyway a matter of evidence.

8. I have considered the submissions made by the learned counsels for the parties.

9. It is not denied by the petitioner that both, the invoice of the car and the car loan, are in the name of the respondent no.2. The plea of the petitioner that he had purchased the car in the name of the respondent no.2 as he was known to him, cannot be accepted at least at this stage, as the investigation is at a preliminary stage, and would also be contrary to the Benami Transaction Act.

10. The plea of the Settlement Agreement also does not impress this Court as the respondent no.2 has duly disclosed the settlement in the complaint, based whereon the FIR has been registered, and has, on the contrary, pleaded that the petitioner has failed to comply with the



terms of the settlement. Rather, the terms of the settlement itself do not lend support to the case now set up by the petitioner that the petitioner had purchased the vehicle in the name of the respondent no.2. The settlement, in fact, speaks to the contrary. In any way, the fact of the settlement or its compliance/non-compliance and its effect, is also a matter of investigation. The FIR cannot be quashed merely on the basis of such settlement having been executed.

11. The Supreme Court in *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Ors.*, (2021) 19 SCC 401, while laying down the circumstances for exercise of powers under Section 482 Cr.P.C in quashing of FIR, has observed that:

“...33.4 The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).

33.5 *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;*

33.6 *Criminal proceedings ought not to be scuttled at the initial stage;*

33.7 Quashing of a complaint/FIR should be an exception rather than an ordinary rule; ...”

12. Therefore, I am of the opinion that the petitioner has not been able to make out a case for the quashing of the FIR at this stage.

13. The petition and the pending application are accordingly dismissed.



2024:DHC:4327



14. There shall be no order as to costs.
15. It is clarified that the present order shall not affect the investigation or the trial of the case.

NAVIN CHAWLA, J

MAY 27, 2024/Arya

Click here to check corrigendum, if any