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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 18.09.2024

\+ CRL.M.C. 4920/2024 AND CRL.M.A. 18800/2024

BANK OF INDIA .....Petitioner

Through: Mr. P. K. Mullick, Ms. Soma Mullick and Mr. S. K. Deuria, Advs.

versus

ANJU BHATIA & ANR. .....Respondents

Through: Mr. Raj Kumar Dewani, Adv. alongwith respondents in person.

CORAM:
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

% **JUDGMENT**

ANOOP KUMAR MENDIRATTA, J (ORAL)

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for quashing of Complaint Case No. 56080/2016 under Sections 409/120B/34 IPC, pending before Metropolitan Magistrate (East), Karkardooma Courts, Delhi.

2. In brief, ATM Card and PIN of ATM card, delivered by post to respondents during the relevant period in April 2007 was already compromised and withdrawals were made from their Bank account from Ghaziabad, U.P., Bombay (Maharashtra), although respondents are residents of Delhi.

3. However, detailed investigation report of Bank of India's Investigation Department concluded that allegations raised by respondents were baseless and the withdrawals had been made by her or her family members who were aware of the PIN and also had an access to the ATM card.

4. Thereafter, a criminal complaint under Section 200 Cr.P.C. against the petitioner Bank and its officials, namely, Arvind Kumar, (Branch Manager), R. K. Kapoor (Field officer), Deepa (Manager Administration) and Manju Arora (employee of the Bank) for offences under Sections 201/202/203/204/406/409/418/468/470/471/120B IPC was preferred on 08.09.2008, before learned MM, Karkardooma Courts, Delhi. After pre-summoning examination of respondents, summons were issued to petitioner Bank and R. K. Kapoor on 12.07.2013 for offence punishable under Sections 409/120B/34 IPC, since no substantial evidence was found against other officials. On 13.10.2017, accused R. K. Kapoor expired and proceedings against him stand abated. The matter is fixed before learned Trial Court for framing of charge against petitioner Bank.

5. Learned counsel for petitioner submits that though the present proceedings for quashing of above complaint case were filed on merits, but during pendency of proceedings, respondents have agreed to quashing of the proceedings without prejudice to their rights and contentions in respect of proceedings pending before the Consumer / Civil Forum.

6. Respondents who are present in person submit that they do not wish to continue with the proceedings and have no objection in case the proceedings in question are quashed without prejudice to their rights and contentions in respect of proceedings pending before the Consumer / Civil Forum.

7. Perusal of record reveals that in absence of any concrete evidence, no offence is disclosed against the petitioner Bank, and the case appears to be of fraudulent withdrawal of amount from account of respondents. The matter pertains to the year 2008 and charge is yet to be framed.

8. Petitioner in the present case seeks to invoke the powers under Section

482 of the Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

9. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

10. In the facts and circumstances, this Court is of the considered opinion that since there is no concrete / incriminating evidence against the petitioner Bank or the then Manager in the commission of alleged offences and also as the respondents do not wish to proceed with the proceedings against petitioner Bank, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. The chances of conviction are bleak in view of amicable settlement between the parties. For the aforesaid reasons, in the interest of justice, Complaint Case No. 56080/2016 under Sections 409/120B/34 IPC and proceedings emanating therefrom are quashed, without prejudice to the rights and contentions of respondents in respect of proceedings pending before the Consumer / Civil Forum.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 18, 2024

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