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

+ **CRL.M.C. 5254/2024, CRL.M.A. 20069/2024**

RAHUL GUPTA

.....Petitioner

Through: Ms. Maninder Acharya, Sr. Advocate
with Ms. Jyoti Taneja, Ms. Riya
Arora, Ms. Ishika, Mr. Surya Garg,
Mr. Moksh Tyagi, Ms. Bhumika and
Ms. Riya Pal, Advocates.

versus

STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP
with SI Dharmendra, PS: Kishangarh.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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11.07.2024

CRL.M.A. 20070/2024 & 20071/2024

Exemption allowed, subject to just exceptions.

Applications stand disposed of.

CRL.M.C. 5254/2024, CRL.M.A. 20069/2024

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 FIR No. 0094/2022, under Sections 467/468/471/120B IPC, directed to be registered vide order dated 05.03.2022 passed by learned MM, Patiala House Courts pursuant to application under Section 156(3) Cr.P.C. preferred on behalf of the complainant/ Respondent No. 2.

2. At the outset, Learned Senior counsel for petitioner points out that an advance copy has also been served upon respondent No. 2 but none appears

CRL.M.C. 5254/2024

Page 1 of 3



for Respondent No. 2 despite advance service. She further urges that dispute between petitioner and respondent No. 2, who are son and father, primarily pertains with respect to an alleged draft partnership deed in respect of PP Jewellers submitted in SBI. She contends that order dated 05.03.2022 passed by learned MM directing for registration of FIR in question is cryptic and was passed despite non disclosure of any offence. Cancellation / final report is further stated to have been filed by the State after thorough investigation with detailed reasons recorded therein. In aforesaid background, she prays that FIR be quashed keeping in perspective the reasons and findings recorded in the cancellation report. It is also pointed out that an application under Section 340 Cr.P.C. preferred on behalf of the petitioner is also pending consideration before learned MM since 05.03.2022. Reliance is also placed upon paragraph 102 in *State of Haryana and Others vs. Bhajan Lal and Others*, 1992 Supp (1) SCC 335.

3. Learned APP for the State, who appears on advance notice, on instructions of IO, informs that a protest petition has been filed on behalf of complainant and the matter is subjudice before the learned MM.

4. This Court is of the considered opinion that since the issue is already sub judice before the learned MM for consideration of cancellation report after filing of protest petition, it may be preposterous for this Court to intervene in the proceedings under Section 482 Cr.P.C.

5. At this stage, learned Senior Counsel for petitioner seeks to withdraw the petition without prejudice to her rights and contentions with liberty to prefer the same, if the petitioner is aggrieved against the orders passed by learned MM, on consideration of cancellation / final report, wherein, recommendations are stated to have also been made by the Investigating



Agency for initiating proceedings under Section 182 IPC for malicious prosecution.

6. Taking the statement of learned counsel for petitioner on record, petition is accordingly disposed of without prejudice to the rights and contentions of the petitioner. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J.

JULY 11, 2024/R