



\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7579/2024**
GIRISH CHAND MANDAL ALIAS AMITPetitioner
Through: **Ms. Barkha Tiwari, Advocate.**

versus

THE STATE OF NCT OF DELHI AND ANR.Respondents
Through: **Ms. Manjeet Arya, APP for State**
along with SI Virender Kumar P.S.
Model Town.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
05.12.2024

CRL. M.A. 28968/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The applications are disposed of.

CRL.M.C. 7579/2024

1. By way of the present petition, the petitioner seeks quashing of FIR No. 305/2017 registered at P.S. Model Town, Delhi for offences punishable under Section 420/471/34 IPC.
2. Learned counsel for the petitioner submits that on the basis of the same transaction, the complainant has already initiated proceedings under Section 138 of the Negotiable Instruments Act against one *Mr. Anil Sinha*. She further submits that though the present petitioner has not been made an accused in the said proceedings, however, the present FIR has been lodged on the basis of the same cheque and the respondent No.2 has concocted a



false story just to implicate the petitioner.

3. I have heard learned counsel for the petitioner and gone through the records. The NI Act complaint and the FIR both arise in relation to a cheque bearing No. 000077 dated 15.11.2016 of Rs. 8,50,000/- drawn on Bank of Baroda, Jahangirpuri. This cheque is stated to have been issued by one *Anil Kumar Janardhan Sinha*. In the NI Act complaint, it is alleged that the respondent No.2 extended friendly loans to *Anil Kumar* on three occasions in 2016 and it was for the repayment of this loan amount that the cheque in question was issued which came to be dishonoured with remarks "Funds Insufficient". It is noted that the petitioner has not been made an accused in this complaint.

Subsequently, on complaint of the respondent No.2, FIR No. 305/2017 came to be registered under Sections 420/467/468/471/34 IPC against the petitioner and Anil Kumar. In these proceedings, it was alleged that the petitioner alongwith co-accused *Anil* cheated the respondent No.2 out of Rs. 8.5 lacs on the pretext of getting his son *Lalit* a job in Indian Railways by claiming to have connections in the Railways. It was further alleged that for the said purpose, the accused had provided certain forged documents such as joining letter etc. to the respondent No.2. It was also alleged that respondent No.2 had paid the cheated amount in instalments i.e. Rs.2 lacs in January 2016, Rs.3.5 lacs in April, 2016 and Rs.3 lacs in July, 2016.

4. A perusal of both set of complaints make it clear that the two proceedings deal with very different aspects. While the complaint under Section 138 of NI Act is restricted to the dishonour of the cheque in question, the FIR also deals with the allegations of cheating by the petitioner



by misrepresenting to the respondent No.2 that he had connections in Railways who could secure a job on a 'Group- D' post for the son of respondent No.2 and also providing him with letters for examination, conducting medical check-up in Kolkata and giving him a joining letter dated 08.07.2016 which respondent No.2 later found were forged and fabricated. These aspects of forgery and cheating would naturally not be looked into in NI Act proceedings and an FIR followed by investigation would be necessary for testing the veracity of these allegations. There is no bar on concurrent proceedings under the IPC and the NI Act. There may be some overlapping facts in both the cases, but ingredient of the offences are entirely different.

Moreover, the petitioner has not even been made an accused in the NI Act proceedings, so the argument of double jeopardy would also not be available to him.

5. Additionally, it is seen that the FIR was lodged in the year 2017. It has been informed that the trial is undergoing in which the complainant already stands examined and other witnesses are under examination. The present petition has been preferred after a delay of seven years. No explanation has been provided for the reason of this delay in approaching the Court.

6. In view of aforesaid facts and circumstances of the case, I find no ground to allow the present petition and the same is dismissed alongwith pending application.

MANOJ KUMAR OHRI, J

DECEMBER 05, 2024/ssc