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

% **Date of order: 29th January, 2025**

\+ W.P.(CRL) 314/2025

SRI MAHESH SINGH .....Petitioner

Through: Appearance not given.

versus

STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Mr. Yasir Rauf Ansari, ASC with Mr. Alok Sharma, Amit Sahni and Mr. Vasu Agarwal for State along with SI Rajiv Ranjan

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

CRL.M.A. 2687/2025 *(Exemption)*

1. Exemption allowed subject to just exceptions.

2. The application stands disposed of.

W.P.(CRL) 314/2025 & CRL.M.A. 2686/2025

3. The instant petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") [earlier Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC")] has been filed on behalf of the petitioner seeking quashing of FIR bearing No. 0392/2024 registered at

Police Station - Mayapuri, for offences punishable under Sections 420/120B of the Indian Penal Code, 1860 (hereinafter "IPC").

4. The brief facts of the case are that one Mr. Nand Lal, who is the maternal uncle of the respondent no.2/complainant, allegedly promised the complainant that he will get the complainant's son, namely Mr. Mohit, and daughter, namely Ms. Gunjan, employed in Railways if he is paid a total sum of Rs. 14,00,000/-. The complainant arranged the said amount by selling a piece of land she owned, in addition to obtaining a loan and transferred it as per the instructions of Mr. Nand Lal.

5. Thereafter, it is alleged in the FIR that Mr. Nand Lal introduced Mr. Mohit to the petitioner in Lucknow. He told Mr. Mohit that the petitioner is a permanent employee of the Railways and will help him secure a job there. It is further alleged that Mr. Mohit met the petitioner again in Bihar where the petitioner asked him to sign some documents.

6. Mr. Mohit and the complainant's daughter, namely Ms. Gunjan, allegedly met the petitioner again along with Mr. Nand Lal and he took Gunjan's signature on some documents. Subsequently, it is alleged that the petitioner again took the signature and fingerprints of the children of the complainant on a few documents and kept them with him. However, he gave no clear answer as to when their training will start and their jobs will get confirmed.

7. When the complainant and her children got suspicious, they asked Mr. Nand Lal to return the amount that was paid by the complainant. Mr. Nand Lal did not give any satisfactory response and merely stated that he will take

the said amount back from the petitioner and return it to the complainant. He also informed the complainant that he has only Rs. 4,00,000/- out of Rs. 14,00,000/- that was paid to him by the complainant and the remaining amount of Rs. 10,00,000/- was transferred by him to the petitioner.

8. On the complainant's insistence, Mr. Nand Lal sent a sum of Rs. 2,00,000/- to Gunjan's account through bank transfer and assured the complainant that he will return the remaining amount after recovering it from the petitioner. Thereafter, Gunjan warned Jatin, Mr. Nand Lal's son, of legal consequences if their money was not returned and he informed her that the petitioner has signed an agreement affirming that the petitioner will return the money at the earliest.

9. A few months later, the complainant got to know that the petitioner has been arrested by the Uttar Pradesh Police in relation to some other case. Thereafter, the complainant got to know that the petitioner has come out of prison and she went to his house, where the petitioner's brother made her speak to the petitioner over phone and the petitioner assured her that he would return her money through transfer.

10. Despite the petitioner's assurance, the complainant did not receive her money back and she went to the petitioner's house again. The petitioner gave her a cheque dated 16th January, 2023 of Rs. 1,00,000/- and assured her that he would return the remaining amount soon. The said cheque bounced due to insufficient amount available in the petitioner's account. Thereafter, the complainant called the petitioner multiple times for returning her money but received only Rs. 20,000/- from him in Gunjan's account.

11. Subsequently, the requests made by the complainant and her children to return their money were ignored by the petitioner. Consequently, the instant FIR dated 15th November, 2024 was registered against the petitioner and co-accused. Aggrieved by the same, the present petition has been filed by the petitioner.

12. Learned counsel appearing on behalf of the petitioner submitted that the instant FIR was lodged due to the some dispute between the co-accused and the complainant. It is further submitted that the present petitioner has been implicated by the complainant based on false and fabricated facts.

13. It is submitted that the petitioner is not aware of any incident as stated in the instant FIR. It is further submitted that the petitioner has never met with the respondent no. 2 or her children in-person.

14. It is submitted that the instant FIR has been lodged with a malicious and *mala fide* intent on the part of respondent no. 2 as the petitioner is not even an employee of the Railways, and therefore, there is no way he could have offered employment to anyone in the Railways.

15. It is submitted that a bare perusal of the FIR discloses that there is no *prima facie* case made out against the petitioner for offences punishable under Sections 420/120B of the IPC.

16. In view of the foregoing submissions, it is prayed that the instant FIR may be quashed.

17. *Per contra,* Mr. Yasir Rauf Ansari, learned ASC for the State vehemently opposed the instant petition and submitted that the same should be dismissed for being devoid of any merit.

18. It is submitted that it is incorrect to say that the petitioner is unaware of the incident as mentioned in the FIR. It is further submitted that from a plain reading of the FIR, there are sufficient grounds to enable the Court to take a *prima facie* view that the said offence is made out against the petitioner.

19. It is submitted that the petitioner had issued a cheque to the complainant which was dishonoured and that the issuance of cheque itself establishes the petitioner's involvement in the present case. It is further submitted that the petitioner has also given an undertaking to the complainant stating therein that he will return the entire amount to the complainant in case he is unable to secure employment for them.

20. It is submitted that the investigation is currently going on against the petitioner in the present case and at this stage, there is no cogent ground for quashing the present FIR as the allegations against the petitioner disclose the commission of the offence in question.

21. In view of the foregoing submissions, it is prayed that the instant petition may be dismissed.

22. Heard learned counsel appearing on behalf of the parties and perused the material placed on record.

23. Before adverting to the merits of this case, it is imperative to discuss the settled law on the issue of quashing of FIR. In the case of ***State of Haryana v. Bhajan Lal***, **1992 Supp (1) SCC 335,** the Hon'ble Supreme Court had set out the broad categories of cases in which the inherent powers of the Court could be exercised for quashing an FIR. The relevant portion of

the judgment is reproduced as under:

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

24. Upon perusal of the above quoted judgment, it is clear that the inherent powers of the Courts must be exercised sparingly and with great caution. From the above said judgment, it is clear that the Court may quash an FIR under Section 528 of the BNSS (earlier Section 482 of the CrPC) if it is satisfied that the allegations made against the accused, even when they are taken at face value and accepted in their entirety, do not *prima facie*

constitute any offence or make out a case against the accused. Further, the Court may also invoke its extraordinary powers to quash a complaint if the allegations made in the complaint are so absurd and improbable that no prudent person may reach a conclusion that there is sufficient ground for proceeding against the accused.

25. Therefore, it is clear that the question of exercise of the Court's inherent powers under Section 482 of the CrPC to quash criminal proceedings would depend on the facts and circumstances of each case. However, while deciding this question, the Court does not need to determine the genuineness of the allegations and the evidence placed before it. The Court's exercise is merely limited to a determination as to whether the allegations when taken at their face value, disclose the commission of the offence in question by the accused.

26. The instant FIR is registered against the petitioner under Sections 420/120B of the IPC, wherein, it is alleged that the accused persons, including the petitioner, conspired to cheat the complainant.

27. Section 120B of the IPC reads as under:

> *"**120B. Punishment of criminal conspiracy**. — (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*
>
> *(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either*

description for a term not exceeding six months, or with fine or with both.]"

The offence of criminal conspiracy is defined under Section 120A of the IPC, which reads as under:

> *"**120A. Definition of criminal conspiracy**. — When two or more persons agree to do, or cause to be done, —*
> *(1) an illegal act, or*
> *(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:*
> *Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.*
> *Explanation. —It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object."*

28. The essential ingredients of the offence of criminal conspiracy are *firstly*, an agreement between two or more persons; and *secondly*, the agreement must relate to doing or causing to be done either an illegal act or an act which is not illegal but is done by illegal means.

29. Section 420 of the IPC reads as under:

> *"**420. Cheating and dishonestly inducing delivery of property**.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to*

fine."

The offence of cheating is defined under Section 415 of the IPC, which reads as under:

> *"**415. Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"."*

30. In the case of ***Delhi Race Club (1940) Ltd. v. State of U.P***, **(2024) 10 SCC 690,** the Hon'ble Supreme Court held that essential ingredients of the offence under Section 420 of the IPC are *firstly,* deception of any person, either by making a false or misleading representation or by other action or by omission; *secondly,* fraudulently or dishonestly inducing any person to deliver any property, and *thirdly,* the consent that any persons shall retain any property and *finally*, intentionally inducing that person to do or omit to do anything which he would not do or omit if he were not so deceived.

31. Adverting to the merits of the present case, this Courts deems it important to list the relevant facts as alleged in instant FIR:

a) Mr. Nand Lal persuaded the complainant to transfer a sum of Rs. 14,00,000 to him by promising her that he will secure employment for her children in the Railways.

b) Mr. Nand Lal, claiming that the petitioner was an employee with the Railways, facilitated multiple meetings between the complainant's children and the petitioner.

c) The petitioner took the signature of the complainant's children on some documents giving the impression that he will secure employment for them in the Railways.

d) Later, the complainant realised that the petitioner will not be fulfilling his promise and started demanding her money back from him.

e) The petitioner, on complainant's insistence, gave her a cheque of Rs. 1,00,000 and asked her for more time to return the remaining amount.

f) The said cheque was dishonoured due to lack of funds in the petitioner's account.

g) The petitioner affirmed by way of an agreement that he will return the entire remaining amount back to the complainant.

h) The petitioner only transferred a sum of Rs. 20,000/- to Gunjan's account and later ignored the requests of the complainant to return the remaining amount. Therefore, the instant FIR was registered against the petitioner and co-accused.

32. The instant FIR has been registered against the petitioner alleging that he conspired with the co-accused to cheat the complainant. This Court will now analyse the above-listed facts as alleged in the FIR to determine if a *prima facie* case is made out against the petitioner.

33. As per the allegations in the FIR, Mr. Nand Lal made a representation to the complainant that he will secure employment for the complainant's children in the Railways if she can transfer an amount of Rs. 14,00,000/-. The complainant despite her financial constraints, arranged the said amount and transferred it to Mr. Nand Lal.

34. Mr. Nand Lal set up meetings between the complainant' children and the petitioner, who was portrayed as an employee with the Railways. The petitioner took the signature of the complainant's children on some documents, giving the impression that he will secure employment for them in the Railways.

35. After an inordinate delay in the fulfilment of the promise made by the petitioner, the complainant got suspicious and asked the petitioner to return her money. The petitioner gave repeated assurances that he will return the amount to the complainant if he is unable to secure employment for her children and also signed an undertaking affirming the same.

36. It is also noted by this Court that the petitioner gave a cheque of Rs. 1,00,000/- to the complainant on her insistence to return the money. However, the said cheque bounced due to insufficiency of funds in the petitioner's account. Later, the petitioner transferred Rs. 20,000/- to Gunjan's account through bank transfer.

37. In view of the above discussed facts, this Court is unable to accept the petitioner's case that he is unaware of the incident as disclosed in the FIR. This Court observes that when the allegations in the FIR are taken at face value and accepted in their entirety, they disclose that the accused persons,

including the petitioner, induced the complainant to transfer a sum of Rs. 14,00,000/- on the pretext of securing employing for her children. Therefore, this Court finds that a *prima facie* view may be taken that the allegations against the petitioner disclose the commission of the said offence in question, and the veracity of the said allegations need to be determined in trial based on the evidence adduced by the parties.

38. After a thorough consideration of the facts and law in the present case, this Court is of the considered view that the present matter is not a fit case for the exercise of the Court's inherent powers under Section 528 of the BNSS to quash the FIR bearing No. 0392/2024 dated 15th November, 2024, registered against the petitioner under Sections 420/120B of the IPC at Police Station - Mayapuri, New Delhi.

39. Accordingly, the instant petition along with pending applications, if any, stands dismissed.

40. It is made clear that the observations made herein are only for the purpose of deciding the instant petition and the same shall not be taken as an expression of this Court on the merits of the case.

41. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

JANUARY 29, 2025
rk/st/ryp

Click here to check corrigendum, if any