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

+ **W.P.(CRL) 2041/2019**

DEEPAK KUMAR

.....Petitioner

Through: **Mr. Baldev Raj, Advocate.**

versus

STATE & ORS.

.....Respondents

Through: **Mr. Yasir Rauf Ansari, ASC (Crl) for the State with Mr. Alok Sharma, Mr. Mohit Raj Nagar and Mr. Vasu Agarwal, Advocates.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

21.02.2025

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1. Writ Petition under Article 226, 227 of the Constitution of India has been filed with a prayer to direct promotion of fair and impartial investigation and for the arrest of the accused persons and also to transfer the investigations of this case to the Crime Branch, Delhi Police.

2. It has been explained that in December, 2015 one Ms. Vimal Marwah was introduced to the Petitioner by one Ms. Kamlesh Verma who was an old customer of Petitioner. Ms. Vimal Marwah asked the Petitioner to invest some money in her business. On the assurance of Ms. Kamlesh Verma, Petitioner invested ₹10 lakhs in the business of Ms. Vimal Marwah on 12.01.2016. This amount was given in the presence of Ms. Kamlesh Verma and a sum of ₹30,000/- was given to the Petitioner as an initial return. A further sum of ₹5 lakhs and Rs.15



lakhs was given to Ms. Vimal Marwah by the Petitioner on 15.02.2016 and in March-April, 2016 respectively. Ms. Vimal Marwah recommended Mr. Vishwas Badlani @ Vishu for investing a sum of Rs.10 lakhs to whom as well Petitioner gave Rs.10 lakhs on 26.04.2016. Ms. Vimal Marwah further requested Petitioner on 28.04.2016 telephonically for a sum of Rs.3 lakhs on urgent basis which was duly extended by the Petitioner.

3. Further request of Ms. Vimal Marwah for a sum of Rs.5 lakhs on 10.06.2016 was met by the Petitioner. Further sum of Rs.5 lakhs were paid to Ms. Vimal Marwah on 15.06.2016 as she required to get the consignment of mobile phones from China.

4. On 08.07.2016, Mr. Gaurav Malhotra approached the Petitioner through the reference of Ms. Vimal Marwah and sought Rs.2 lakhs on urgent basis which was given by the Petitioner for which Ms. Vimal Marwah stood a guarantor. A further sum of Rs.8.5 lakhs in cash was given on 14.07.2016 by the Applicant to Ms. Vimal Marwah.

5. It is further asserted that since August, 2016 Petitioner tried to contact Ms. Marwah but to no avail. Then he came to know that Mr. Gaurav Malhotra and Mr. Vishwas Badlani are not traceable. Talking to Ms. Marwah about this fact, she was informed that she has deliberately asked them to avoid the Petitioner. Ms. Marwah refused to return a total sum of Rs.73.50 lakhs that she owed to the Petitioner. On 10.03.2017 Ms. Marwah and her son threatened the Petitioner with dire consequences.

6. On 07.06.2017, Mr. Vishwas Badlani asked the Petitioner to meet him at Rajouri Garden at 10 PM. At that time, Ms. Marwah, Ms.



Kamlesh Verma and Mr. Badlani were present, but they refused to return the money and threatened them with dire consequences if he didn't give an additional sum of Rs.10 lakhs. The Petitioner lodged a complaint for offences of criminal conspiracy and cheating against Ms. Vimal Marwah, Ms. Kamlesh Verma and Mr. Vishwas Badlani on 08.07.2018 at P.S.Rajouri Garden.

7. When Ms. Vimal Marwah was contacted by the Police in December, 2018 she agreed to settle the matter amicably by repayment of Rs.53 lakhs only. Memorandum of Understanding dated 18.12.2018 was drafted between the parties. Unfortunately, Rs.18.55 lakhs were paid to the Petitioner, but no further payments were made.

8. Accordingly, in terms of MOU Rs.54.95 lakhs are still owed payable to the Petitioner. No further investigations have been carried out by the IO and SHO despite repeated requests. It has been almost two years. Hence, the Petition was filed for fair and independent investigations in the present case.

9. **The Status Report** has been filed on behalf of the State wherein it is submitted that after the registration of FIR due investigations were carried out and the Chargesheet has been filed on 07.04.2022 against Ms. Vimal Marwah in whose bank account the transactions were traced. Mr. Gaurav Malhotra is absconding and against him the Chargesheet would be filed as and when he is apprehended.

10. It is further submitted that cognizance has been taken on the Chargesheet and the matter is now pending for arguments on charge.

11. **Submissions Heard and record perused.**



12. Essentially, the allegations of the Petitioner were against Ms. Vimal Marwah though Mr. Vishwas Badlani and Ms. Kamlesh Verma were also named as accused. However, according to the investigations no cogent evidence could be recovered against them. The entire investigations have been already conducted and Chargesheet has been filed. In case there is any culpability found against these two persons during the course of the evidence they can be summoned by the Trial Court under Section 358 BNSS.

13. There are no cogent grounds detailed in the Petition for transfer of the investigations. Moreover, the Chargesheet already stands filed. No further directions are required to be made.

14. Petition is accordingly disposed of.

NEENA BANSAL KRISHNA, J

FEBRUARY 21, 2025

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