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**(2007) 11 DEL CK 0176**

**In the Delhi High Court**

**Case No : Criminal M.C. No. 5024 of 2006**

Dinesh Kumar

APPELLANT

Vs

State of NCT of Delhi and Others

RESPONDENT

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**Date of Decision : 26-11-2007**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482  
Penal Code, 1860 (IPC) — Section 120B, 406, 420

**Citation : (2007) 11 DEL CK 0176**

**Hon'ble Judges : P.K. Bhasin, J**

**Bench : Single Bench**

**Advocate : Braham Singh, for the Appellant; Pawan Behl, APP and Ajay Kumar Gupta, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

P.K. Bhasin, J.—The petitioner has invoked the jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C." in short) for quashing of FIR no. 568/2002 for the offences punishable under Sections 406/420/120B IPC registered on 31.12.2002 at police station Ambedkar Nagar and also the criminal proceedings arising out of the said FIR pending in the Court of Ms. Geetanjali Goel, Metropolitan Magistrate, New Delhi.

2. The facts leading to the registration of FIR against the petitioner and his prosecution are that for the economic development of educated urban people, the Central Government of India launched "Prime Minister Rojgar Yagna" for which purpose financial assistance was also provided to the unemployed persons. To avail that facility petitioner applied for a loan for purchase of a computer set and after considering the case of the petitioner the Commissioner of Industries of National Capital Territory Government of Delhi recommended his case for financial assistance to the respondent no. 4, Punjab National Bank which then sanctioned a loan of Rs. 60,000/- to the petitioner on 18-3-1996. For that purpose an agreement was executed between the respondent no. 4 and the

petitioner and the petitioner hypothecated the computer set with the bank but later on the computer in question was disposed of by the petitioner which resulted in the violation of terms and conditions of the loan agreement. To recover that loan amount respondent no. 4 got registered a criminal case at Police Station Ambedkar Nagar for the offences under Sections 406/420/120B I.P.C. The police investigated the matter and after completion of the investigation filed charge sheet in the Court of Metropolitan Magistrate, New Delhi where the case is still pending.

3. During the pendency of the above said criminal proceedings the petitioner and respondent no. 4 after having resolved their dispute regarding the loan amount have come to an amicable settlement and the petitioner is stated to have made the payment to the complainant bank as per the settlement.

4. Since one of the offences for which the petitioner was being prosecuted, namely, u/s 406 IPC was not compoundable as per the provisions of Section 320 Cr.P.C the present petition u/s 482 Cr.P.C. was filed by the petitioner. Notice of the petition was sent to the State and the complainant bank. The bank entered appearance through its counsel on 10.10.2007. In support of this petition learned Counsel for the petitioner placed reliance upon one judgment of the Apex Court in *Nalini Shankaran and Ors. v. Neelkanth Mahadeo Kamble and Ors.* 2007 (2) Crimes 329 (SC), and three judgments of this Court in *Rishi Raj and Ors. v. The State* 2001 (2) JCC 234, *Ajay Kumar and Ors. v. State and Ors.* 131 (2006) DLT 130 and *D.C. Singham v. State and Anr.* 2006 (1) JCC 371.

5. The counsel for respondent no. 4-complainant submitted before this Court that bank has received its loan amount and affirmed that the matter has been amicably resolved and so it was no more interested in pursuing the case against the petitioner. He supported the prayer of the petitioner stating that respondent no. 4 has no objection if the FIR and criminal proceedings arising there from are quashed.

6. Learned APP for the State, however, opposed quashing of the FIR on the ground that allegations against the petitioner are grave in nature and the offence u/s 406 IPC is not compoundable u/s 320 Cr.P.C. and if this offence is permitted to be compounded that would amount to bye-passing the provisions of Section 320 Cr.P.C. which should not be done by this Court by exercising the inherent jurisdiction vested in it u/s 482 Cr.P.C.

7. I have given my due consideration to the rival submissions. It is now well settled by many judgments of the Hon''ble Supreme Court that FIRs even in respect of those offences which are not compoundable u/s 320 Cr.P.C. can be quashed as also the criminal proceedings emanating there from, if it is felt while dealing with a quashing petition u/s 482 Cr.P.C. that it would secure the ends of justice if the FIR and criminal proceedings arising there from are quashed and continuation of the criminal proceedings would amount to abuse of the process of law. Reference in this regard can be made in one of the judgments of Hon''ble

Supreme Court which is reported in B.S. Joshi and Others Vs. State of Haryana and Another, wherein it has been so held by the Hon"ble Supreme Court. It is significant to note that one of the offences in that case was also u/s 406 I.P.C. but still the criminal proceedings were quashed because of the compromise between the complainant side and the accused persons. In the present case, the FIR against the accused came to be registered primarily because of his failure to repay the loan amount which the complainant bank had disbursed. Since the complainant has received back the loan amount from the accused it would secure the ends of justice if the FIR registered against the petitioner and the ongoing trial are quashed.

8. This petition is accordingly allowed and consequently FIR No. 558/2002 under Sections 406/420/120B IPC registered at police station Ambedkar Nagar and criminal proceedings arising there from pending in the Court of Ms. Geetanjali Goel, Metropolitan Magistrate, New Delhi are hereby quashed.