

(2022) 04 DEL CK 0134

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 2328 Of 2020, Criminal
Miscellaneous Application No. 16416 Of 2020, 4019 Of 2021

Muduli Suprava

APPELLANT

Vs

State Of Nct Of Delhi And Another

RESPONDENT

Date of Decision : 19-04-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 120B, 420, 467, 468, 471

Citation : (2022) 04 DEL CK 0134

Hon'ble Judges : Asha Menon, J

Bench : Single Bench

Advocate : Ajeet Yadav, Arunav Tiwari, G.M. Farooqui, Harsh Singhal

Final Decision : Disposed Of

Judgement

Asha Menon, J

1. This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.349/2019 registered at PS Tilak Nagar u/s 420/467/468/471/120B/34 IPC and consequential proceedings arising therefrom.

2. The contention of Mr. Ajeet Yadav, learned counsel for the petitioner is that the entire case setup against the petitioner was so improbable on the face of it that the FIR was required to be quashed. Reliance has been placed on the judgment of the Supreme Court in State of Haryana and Ors. Vs. Bhajan Lal 1992 Suppl. (1) SCC 335 and Anand Kumar Mohatta Vs. State (NCT of Delhi), (2019) 11 SCC 706 It is submitted by the learned counsel that the FIR was a motivated one and was so intended only to subject the petitioner to vexatious litigation in the hope of some settlement being procured.

3. Learned counsel further submitted that the petitioner had approached the respondent No.2/complainant and had promised to help her with allotment of a DDA flat reserved for VIPs and which had been valued at Rs.42 lakhs, for a sum

of Rs.16 lakhs. According to the learned counsel for the petitioner, this story was hard to swallow and no person would have fallen for such an offer. Furthermore, there was no proof of any payments having been made by the complainant to the petitioner since all the payments made by the complainant had been claimed to have been made in cash. There is only one witness, namely, the domestic help of the complainant, who claims to have witnessed one such cash payment.

4. It was further submitted that the complainant had not come to the court with clean hands, inasmuch as she was willing to defraud the Exchequer, in effect thereby conspiring with the petitioner, if her story was to be believed, accepting documents purportedly issued by the DDA, at her own residence. Thus, if the case had to continue against the petitioner, the respondent No.2 would also have to be impleaded as a conspirator.

5. Thus, it was submitted that when the entire story was so improbable, the petitioner ought not to be subjected to the agony of a criminal trial. Therefore, the learned counsel prayed that the FIR be quashed.

6. Mr. G.M. Farooqui, learned APP for the State submitted that the case was coming up before the learned Trial Court on 20th April, 2022 for framing of charge, and all submissions that the learned counsel for the petitioner has made before this Court, could be raised at the time of arguments on charge, and the petitioner could seek a discharge before the learned Trial Court. It was further submitted that there were no grounds, whatsoever, for quashing of the FIR.

7. It was also submitted that the petitioner was the main accused as she had managed to fraudulently obtain documents and present the same to the complainant, as if they were authentic official documents. It was submitted that it would be only during trial that the prosecution would be able to prove all facts, on the basis of which the petitioner is now trying to seek quashing. Furthermore, the petitioner would have ample opportunity to cross-examine the complainant to establish whether the story was probable or improbable, to enable the court to come to a considered decision. Hence, the learned APP for the State prayed for the dismissal of the petition.

8. Mr. Harsh Singhal, learned counsel for the respondent No.2/complainant, submitted that the petitioner was a habitual con-woman who was involved in several cases, sometimes promising employment and at other times, promising some other benefit and the complainant had fallen prey to her mechanizations. The respondent No.2 had made a payment of Rs.30 lakhs to the petitioner, the details of which have been provided in the FIR. It was submitted that apart from a case pending before the Dwarka District Courts, registered in 2011 in which Non-Bailable Warrants had been issued against the petitioner, during the time that she was on interim bail, she conned another person in Gurugram, in respect of which a fresh FIR had been registered. It was therefore submitted that the petition be dismissed.

9. While it is true, as urged by the learned counsel for the petitioner, that the

pendency of the other cases can not prevail upon the disposal of this petition, yet, the court does not find any merit in the present petition. The allegations against the petitioner are very clear. As stated in the FIR, the complainant has explained that the petitioner had impressed her of her having contacts in the DDA and having painted a rosy picture. The result was that the complainant was lighter by Rs.30 lakhs. The details of the payments have also been mentioned in the FIR. Whether the complainant was so gullible to have believed the petitioner is not relevant, as it is not the conduct of the complainant that is under query, but the actions of the petitioner, which are to be determined as being criminal or not. The arguments that the complainant ought to be tried as a conspirator are stated to be only rejected as being frivolous submissions.

10. There is force in the submission of the learned APP for the State that the prosecution must be given an opportunity to prove the case against the petitioner. There is no merit in the argument of the learned counsel for the petitioner, that prima facie, no case is made out against the petitioner, or that the decision of the Supreme Court in Bhajan Lal (supra) would enure to her benefit. The decision of the Supreme Court in Anand Kumar Mohatta (supra) has absolutely no application to the facts of the present case. The ingredients of the offence have been prima facie disclosed and a direct nexus has been drawn to the petitioner. Her intentions are also evident from the averments in the FIR. Thus, no ground for quashing the FIR is made out.

11. In the circumstances, this Court finds no merit in the petition which is dismissed alongwith the pending applications.

12. It is however, made clear that the observations in the present order are only for the purpose of the disposal of this petition and the learned Trial Court may proceed independently of these observations, including while deciding the charge.