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

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Reserved on: 11.09.2023
Pronounced on: 13.09.2023+ **W.P. (CRL.) 685/2023**

ACHAL RANA

..... Petitioner

Through: Mr. Malak Manish Bhatt and
Ms. Ananya K., Advocates

versus

GOVT OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Amol Sinha, ASC for the
State along with Mr. Kshitiz
Garg, Mr. Ashvini Kumar and
Ms. Chavi Lazarus, Advocates
with SI Manzoor Alam, P.S.
Cyber/SED.
Mr. B.C. Mishra, Advocate for
R-2 along with R-2.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The petitioner, by way of present petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C. '), seeks issuance of writ of certiorari or any other appropriate writ, order or direction for, *inter alia*,



quashing of FIR bearing no. 101/2022, registered at Police Station Cyber Police Station South East, Delhi under Section 420 of Indian Penal Code, 1860 (*IPC*).

2. Brief facts of the case are that the present FIR was registered on 29.08.2022 on the basis of complaint lodged by respondent no. 2, who had stated that on 30.03.2022, when he was sitting in his chamber in Patiala House Courts, New Delhi, he had obtained the number of Paytm customer care i.e. *****5448 from Google and had dialed on the same since he was facing some problem with his Paytm account. However, the call had got disconnected immediately. It was further stated by the complainant that after about one minute, he had received a call from another number i.e. *****9448 and the caller had introduced himself as customer care executive. It was alleged that by involving him into conversation, the caller had hacked the complainant's mobile and had defrauded him of Rs.50,000/- which had got deducted from his savings bank account in three installments, two of Rs.20,000/- and one of Rs.10,000/-. During the course of investigation, it was discovered that the amount so deducted from the bank account of the complainant had got credited to the bank account maintained by the present petitioner.

3. Praying for quashing of present FIR, learned counsel for the petitioner states that no offence is disclosed against the petitioner from bare reading of the FIR as none of the mobile numbers mentioned in the FIR belong to the petitioner. It is further stated that there is nothing to suggest in the Status Report that there was any intention on the part of the petitioner to commit the alleged offence in question and no role has been attributed to him by the prosecution. It is argued that the amount of



Rs.50,000/- had somehow got credited in the bank account of the petitioner without his knowledge, probably due to some technical glitch as the petitioner is also a service provider and has an account on Paytm. It is stated that petitioner had immediately returned the amount of Rs.50,000/- to the respondent no. 2. It is also stated by learned counsel for petitioner that the matter has been settled between the parties *vide* compromise deed dated 30.01.2023 and the respondent no. 2 does not wish to pursue his complaint. Therefore, it is prayed that FIR be quashed.

4. Learned counsel for the complainant/respondent no. 2, on merits, states that the matter was not settled in a way as suggested by the learned counsel for petitioner and the petitioner had not returned the amount immediately, rather, it was only after registration of present FIR on 29.08.2022 that the amount was returned to the complainant on 13.10.2022. However, it is stated that since matter has been compromised between the parties, the complainant/respondent no. 2 has no objection if the present FIR is quashed.

5. Learned ASC for the State, on the other hand, vehemently opposes the present petition and argues that though the complainant who is present in Court has no objection to quashing of the FIR, this is a case of cyber-fraud and the matter is still at the stage of investigation and chargesheet has not yet been filed. It is further submitted, on instructions from investigating officer, that during the course of investigation, it has been found that an amount of approximately Rs. 28.17 crores has been credited in the bank account of the petitioner and it is to be ascertained whether there have been any other victims of such



fraud/scam. Therefore, it is argued that present petition be dismissed.

6. This Court has heard arguments addressed by learned counsels for petitioner and complainant as well as by learned ASC for the State and has perused the material on record.

7. The case of the complainant is that when he had tried calling on a Paytm customer care mobile number, which he had obtained from Google, the said call had got disconnected. However, immediately thereafter, he had received a call from another mobile number and the caller had projected himself as the Paytm support executive and during the conversation, Rs.50,000/- had got debited from the bank account of complainant.

8. As per Status Report on record, a notice was sent to Paytm during the course of investigation to obtain details of alleged transaction and it was discovered that the cheated amount had got credited to a bank account in IDFC Bank, Chandkheda branch, Ahmedabad, Gujarat. After serving notice to IDFC Bank, the KYC details of the said bank account were obtained and the account was found registered in the name of Ganjanand Infotech, Chandkheda, Ahmedabad, Gujarat, whose proprietor was Achal Rana i.e. the present petitioner.

9. This Court's attention was drawn towards the fact that during investigation, it has been discovered that the petitioner has received about Rs.28.17 crores in his bank account and it appears that he may have duped several other victims, as in the present case, by way of such cyber-fraud.

10. Since the petitioner has sought quashing of FIR on the basis of settlement arrived at between him and the complainant, it shall be



apposite to consider the relevant judicial precedents in this regard.

11. In *Madan Mohan Abbot v. State of Punjab* (2008) 4 SCC 582, it was observed by the Hon'ble Apex Court, while quashing an FIR registered *inter alia* under Section 406 of IPC, that Courts can quash an FIR on the basis of settlement where the disputes are purely personal nature and do not affect the society at large. The relevant observations read as under:

“6. We need to emphasise that it is perhaps advisable that in disputes **where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings** as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

(Emphasis supplied)

12. Learned counsel for petitioner had also argued that the FIR in question pertains only to an offence under Section 420 of IPC and since the dispute between two private persons has been settled, the FIR ought to be quashed. In this regard, this Court takes note of the observations of Hon'ble Apex Court in case of *Parbatbhai Aahir v. State of Gujarat* (2017) 9 SCC 641, where while laying down principles for quashing of FIR in cases of settlement, following principles, relevant for the adjudication of present case, were also laid down:

“16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in



appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. **There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour.** The consequences of the act complained of upon the financial or economic system will weigh in the balance...”

(Emphasis supplied)

13. In adjudicating the present matter, it is crucial to weigh the competing interests and circumstances that have been brought to the knowledge of this Court. The accused, in the present case, has sought the quashing of criminal proceedings, primarily asserting that an amicable settlement has been reached with the complainant. While the principles of quashing of criminal proceedings on the basis of settlement are well-settled through catena of judgments of Hon'ble Apex Court, it is equally important to scrutinize the nature and gravity of the alleged offences well as the wider implications it may have.

14. Upon careful examination of the material placed on record, it becomes evident that this case extends beyond the realm of a mere private dispute arising out of any commercial transaction or simple misdemeanour.

15. A bare reading of the FIR, details of which have already been



discussed in the preceding paragraphs, *prima facie* reveals commission of cyber-crime/cyber-fraud whereby the amount was surreptitiously debited from the bank account of complainant while he was having a conversation with an individual presenting himself as a customer care executive, who had called the complainant from a mobile number. It remains undisputed that the said sum which had got debited from the complainant's bank account in Delhi had found its way into a bank account held by the petitioner in Ahmedabad, Gujarat. It is also not the case of either party that they were known to each other in past or that there was any history of previous transactions between them.

16. In today's digital era, cyber-crimes are proliferating at an alarming rate, leaving a trail of victims in their wake. Neither are cyber-criminals bound by restrictions of borders due to their global reach, nor do they discriminate among their victims, thereby targeting the elderly, the young, the businesses as well as the governments in the digital landscape. **The consequences of cyber-crimes go beyond individual boundaries, impacting numerous unsuspecting victims.** As brought to the knowledge of this Court during the course of arguments, the investigation so far has revealed that huge amount of money, totalling Rs. 28.17 crores has been credited to the bank account of present petitioner and it is to be investigated whether this amount also has been obtained through such illegal and fraudulent means and whether there are other victims of such cyber-fraud. The gravity of such allegations cannot be undermined, as they not only jeopardize the financial security and trust of individuals on financial payment gateways/platforms, but also potentially expose the broader public to similar threats.



17. In the present petition, reliance has also been placed on the decision of Hon'ble Apex Court in case of *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335 to contend that apart from the fact that matter has been settled between the parties, the allegations in the FIR are so absurd and inherently improbable that no offence can be made out against the petitioner. The guidelines for quashing of FIR, as laid down in case of *Bhajan Lal* (*supra*) read 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 extra-ordinary 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 channelized 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 F.I.R. 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 F.I.R. 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 concerned Act (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 concerned Act, 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.”

18. At the cost of repetition, it is to be noted that the FIR contains the account of the incident and the details as to how the complainant was duped of Rs.50,000/-, and pursuant to conduct of investigation, it was discovered that the amount in question had got transferred directly to the bank account maintained by the petitioner herein. The petitioner has himself not disputed the factum of having received such amount in his bank account. Thus, neither the allegations levelled in the FIR are absurd or improbable nor it can be held at this stage that no offence is disclosed against the petitioner from the perusal of FIR and the investigation conducted so far. Therefore, even considering the guidelines for quashing of FIRs as laid down in decision of *Bhajan Lal (supra)* as well as *Neeharika Infrastructure v. State of Maharashtra 2021 SCC OnLine 315*, no grounds exist for quashing of present FIR even on merits.



19. Therefore, considering the nature of the offence, the *modus operandi* adopted by the accused as discernible from the contents of FIR which indicates towards commission of a cyber-fraud, and the possibility of more victims having fallen pray to such cyber-fraud for which investigation is being carried out by the investigating agency, this Court does not deem it appropriate to quash the present FIR, when even the investigation has not been complete and chargesheet has yet not been prepared and filed.

20. Accordingly, the present petition stands dismissed along with pending application.

21. Nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

22. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 13, 2023/zp