

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

+ CRL.M.C.726/2008 & CRL.M.A.2747-48/2008

% Date of decision: 03.03.2008

LALIT BANSAL ...PETITIONER
Through: Mr. G. Tushar Rao, Advocate

Versus

THE STATE, THRU COMMISSIONER OF POLICE ...RESPONDENT

Through: Mr. Sanjay Lao, APP for the State

CORAM:
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

1. Whether the Reporters of local papers
may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be
reported in the Digest? No

SANJAY KISHAN KAUL, J. (ORAL)

Crl. M.A. No.2748/2008

Allowed subject to just exceptions.

Crl. M. C. No. 726/2008

1. The petitioner claims to be a qualified Direct Sales Associate of the HDFC Bank Limited, having been so appointed under a written agreement w.e.f. February, 2004 at Delhi. The petitioner carried out the business for about six months. The proceedings against the petitioner have arisen on account of the fact that the police received secret

information that some persons in the office of M/s Fortune Credits were making forged documents for customers in order to facilitate obtaining loans from various banks. A decoy customer, Mr.Mahipal Singh, was put up and the accused were caught red-handed. The decoy customer visited the office of the petitioner when he was informed by the petitioner and his two associates that the needful could be done and would cost Rs.4,800/-. A sum of Rs.500/- was given as advance to the petitioner on 27.9.2004 and the decoy customer was asked to come back again on 30.9.2004. It is on 30.9.2004 that the accused were caught red-handed at the stage of delivery of documents. An FIR 503/04 dated 30.9.2004 was registered u/s 193/420/467/468/471 IPC r/w Section 120-B IPC at P.S. Preet Vihar and a charge-sheet was subsequently filed u/s 420/468/471/120-B IPC

2. The trial court framed charges u/s 420/471/473/474 IPC r/w Section 34 IPC against the petitioner on 24.8.2007. The revision petition filed by the petitioner before the learned Additional Sessions Judge was dismissed on 17.12.2007. It is these orders which are now sought to be challenged.
3. At the inception of the hearing itself it was pointed out by learned counsel for the petitioner that there cannot be an indefinite number of tiers of judicial scrutiny for litigants. The stage of framing of charges requires the trial court to

sift through the material before it to come to a conclusion whether there was a reasonable possibility of the accused being convicted on the basis of the material on record and the charges have to be framed accordingly. The trial court, thus, in the present case applied its mind and framed the charges under the relevant provisions deemed appropriate by it. The second round of scrutiny took place in the revision proceedings when the learned Additional Sessions Judge similarly called for records and after hearing learned counsel for the parties, upheld the said order. The present proceedings have been filed u/s 482 Cr.P.C., which is the inherent powers of the High Court to make such orders as may be necessary to prevent abuse of the process of any Court or to secure the end of justice. This is an extraordinary remedy which has to be exercised sparingly and should not be resorted to as an appeal or revision as observed by this Court in Kavita Vs. State & Ors., 2000 Cr.L.J. 315 (Del). In fact, it has been observed in State of Bihar Vs. Murad Ali Khan & Ors., (1989) Cr.L.J.1005 that the High Court would not embark upon an enquiry whether the allegations in the complaint are likely to be established by the evidence or not. This legal position has to be applied to the facts of the present case where on the issue of framing of charges, two courts have already gone through the process of scrutiny.

4. Learned counsel for the petitioner, however, insisted that this Court must once again hear all the matters which were argued before the trial court as also before the revision court and, thus, contended at length.
5. On hearing learned counsel for the petitioner, I find no infirmity in the impugned orders. It is not in dispute that M/s Fortune Credits is being run by the petitioner. It is also not in dispute that there was a decoy customer, Mahipal Singh, who was sent for obtaining bank statements on I.T. Returns in his name for obtaining housing loans from HDFC Bank. The decoy customer, inter alia, met the petitioner, who assured that he would prepare the bank statements and I.T. statements of two years in his name and for that he would charge an amount. An advance was given and the balance amount was to be paid at the time of collection of documents on 30.9.2004. There was, thus, common intention of the petitioner shared along with the other co-accused and the charges have been rightly framed under the different provisions. It cannot be said that there is no element of deception involved in the present case so as not to constitute the offence of cheating. It is the case where the documents have been forged and were handed over to be used as genuine one's. There is possession of documents knowing it to be forged and intended to be used as genuine and, thus, the offences are made out under the

relevant provisions of the IPC.

6. It cannot be lost sight of the fact that the Apex Court in the recent judgment in Kailash Verma Vs. Punjab State Civil Supplies Corpn. And Anrs., 2005 (2) SCC 571 has held that the power u/s 482 Cr.P.C. was to be exercised sparingly and such power shall not be utilized as a substitute for second revision. Ordinarily, when a revision has been barred u/s 397(3) Cr.P.C., the complainant or the accused cannot be allowed to take recourse to revision before the High Court u/s 397(1) Cr.P.C. as it is prohibited u/s 397(3) thereof. However, the High Court can entertain a petition u/s 482 Cr.P.C. when there is serious miscarriage of justice and abuse of the process of the court or when mandatory provisions of law are not complied with and when the High Court feels that the inherent jurisdiction is to be exercised to correct the mistake committed by the revisional court.
7. In the present case the charges were framed against the petitioner by the learned trial court and the revisional court confirmed that order after elaborately considering the facts and circumstances of the case. In my considered view, there is no ground made out for this Court to exercise its inherent powers u/s 482 Cr.P.C. as there is no miscarriage of justice warranting such interference.
8. In the end, it must also be observed that a recent trend has been noticed of approaching the High Court at the drop of a

hat on different stages of criminal proceedings to somehow scuttle the trial. The object is to see that the trial does not proceed by seeking to challenge orders passed at different stages of criminal trial and each of such challenge is then carried forward at multi-levels of judicial scrutiny. In the present case the accused were caught red-handed fabricating documents to get a prospective customer to utilize the same with the bank for obtaining housing loan and it is in furtherance of this delaying tactics that the present petition has been filed for a third tier of scrutiny on the issue of framing of charges.

9. It is in view thereof that while not finding any merit in the petition and dismissing the same, I also consider it necessary to impose costs on the petitioner.
10. The petition is accordingly dismissed as without merits with costs of Rs.7,500/-, to be deposited with the Delhi High Court Legal Services Committee within 15 days from today.
Crl.M.A.2747/2008
11. The application has become infructuous and is disposed of.

MARCH 03, 2008
'sp'

SANJAY KISHAN KAUL, J.