

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

+ W.P.(C) 643/2004

M/S MA-MA INTERNATIONAL
Through:

..... Petitioner

versus

UNION OF INDIA AND ORS
Through:

..... Respondents

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **30.11.2009**

1. The petitioner's case in the writ petition was based on the claim that he had informed the respondents about change of office address and shifting to the new premises vide letter dated 29th March, 1999 and in spite of the said information the respondents had incorrectly sent notice at the earlier address. The petitioner had relied upon receipt No.335054 dated 30.3.99 issued by the respondents.
2. Order Dated 18th March, 2004, records that the petitioner had enclosed with the writ petition receipt No.335054 dated 30.3.99 in which the words "Application dated 29.3.99 and letter dated 29.3.99-change of Address" which had been added subsequently. These words did not find mention in the carbon copy of the said receipt produced by the respondents.
3. By order dated 18th March, 2004, notice was issued to the petitioner Mr. B.D. Sharma, sole proprietor to appear and answer why contempt proceedings under Article 215 of the Constitution of India should not be initiated against him.

4. Mr. B.D. Sharma was arrested and taken into judicial custody for non-payment of the penalty amount.

5. On 5th October, 2004, statement of Mr.B.D. Sharma was recorded on oath and the Court accepted the apology given by Mr. B.D. Sharma and the writ petition was dismissed as withdrawn. In the meanwhile Mr. Sunil Kumar, Advocate, under whose name and signature the present writ petition was filed and who had purportedly appeared before this Court for the petitioner on 19th January, 2004, had addressed a letter dated 17th August, 2004 to the Registry. In the said letter Mr. Sunil Kumar, Advocate has stated that he had never signed the Vakalatnama and had not appeared before the Court on any date of hearing.

6. By order dated 5th October, 2004, the Court directed the Registrar (Vigilance) to hold an enquiry into the conduct of Mr. B.S. Singhavi, Advocate and submit his report. The Registrar (Vigilance) after recording evidence, has submitted a detailed report dated 17th April, 2007. The final conclusion drawn is as under:-

“51. In above facts and circumstances, I would unhesitatingly conclude that Mr. B.N. Singhavi filed the writ petition and the accompanying application/affidavits including vakalatnama, misusing the name and address of Mr. Sunil Kumar, Advocate, going to the extent of forging (or causing to forge) signatures of the latter on various documents. I also would conclude that Mr. B.N. Singhavi, Advocate is the author of forgery of the questioned interpolations (Q-1) in the receipt dated 30.3.1999 (Exhibit H/1).”

7. Copy of the said report has been sent to the Bar Council of Delhi for further action by the order dated 23rd April, 2007, passed by Badar Durrez Ahmed, J.

8. In view of the said report prima facie a case of offences under the Indian Penal Code, 1860 is made out. In view of the observations and finding recorded in the report, it is in public interest and expedient and necessary in the interest of justice that the Registry should process the case and file a criminal complaint before the Magistrate having jurisdiction. It is clarified that the observations made in this order are for the purpose Section 340 of the Code of Criminal Procedure 1973 and learned Magistrate will not be bound by any of the observations made in this order or the report submitted by the Registrar (Vigilance). Learned Magistrate will independently apply his mind.

SANJIV KHANNA, J.

NOVEMBER 30, 2009
NA/VKR