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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Criminal M.C. No.762 of 2010 & Crl. M.A. No.2767 of 2010

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26.07.2010

SANJEEV JAIN

..... Petitioner

Through: Mr. Arvind K. Nigam, Sr. Advocate with
Mr. Samrat Nigam & Mr. Satish Kumar,
Advocates.

Versus

STATE THROUGH CBI

.....Respondent

Through: Mr. Harish Gulati & Mr. Anindya
Malhotra, Advocates.

Reserved on: 6th July, 2010
Pronounced on: July 26, 2010

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

J U D G M E N T

1. On directions of this court in Civil Writ Petition No.10066 of 2004, a case was registered by CBI vide RC/EOU-I 2006 E 0007 and investigation was done by CBI. After investigation, charge sheet was filed and learned Metropolitan Magistrate vide its order dated 25th September, 2008 discharged accused Sanjeev Jain while directed for framing charge against other accused persons under provisions of Indian Penal Code.

2. Against the order of learned Metropolitan Magistrate, a writ petition was preferred by CBI and learned Special Judge for CBI, Karkardooma Courts vide his order dated 6th February, 2010 reversed the order of discharge of Sanjeev Jain and observed that role of Sanjeev Jain cannot be segregated from his accomplices to the crime and he directed

for framing charges against accused Sanjeev Jain as well. This order of learned Special Judge, CBI has been assailed by this petition under Section 482 Cr.P.C.

3. During the pendency of aforesaid writ petition and other writ petitions, it had come to notice of this court that in order to take land from DDA on concessional rates several dead Group Housing Cooperative Societies were revived on the basis of forged documents and fake members were enrolled due to an active role played by the then Registrar of Cooperative Societies and this court, therefore, directed CBI to do a thorough investigation. The present F.I.R. was registered in respect of Group Housing Society named Manas Pratyasa Group Housing Society Limited.

4. The investigation showed that a group housing society in the name of Town and Country Planning Organisation Cooperative Group Housing Society Limited was registered with RCS office on 17th September, 1971 with 24 promoter members. After registration, 24 more members were enrolled on 30th June, 1973. As per the bye-laws of Society, membership could only be availed by the employees of Town and Country Planning Organisation. This Society failed to achieve its objectives and was put under liquidation by Sh. Ashok Bakshi, the then Deputy Registrar, RCS on 24th March, 1989. It is this Society which was revived and the investigation revealed that in the year 2003, one person Sh. P.K. Singh submitted an application posing himself as President of Town and Country Planning Organisations Planner Cooperative Group Housing Society Limited to RCS requesting for revival of Society. The address given was 3/109, Lalita Park, New Delhi. Along with application for revival, he also filed an application showing amendment made in bye-laws and change in the name of Society from existing name to Manas Pratyasa Group Housing Society Limited. The investigation revealed that Sh. P.K. Singh was a fictitious person and no such person resided at 3/109, Lalita Park, New

Delhi. In the application, Sh. Hari Chand and Sh. Mahavir Prasad were shown as President and Secretary. Both of them denied even to be the members of the Society. This Society was revived in connivance with the then Registrar of Cooperative Society, Sh. Narayan Diwakar and the investigation revealed that all documents regarding meeting of Management Committee, holding of Annual General Body Meeting, amendment of bye-laws, inspection of the premises by Sh. Iqbal Singh were forged documents. The inspection report given by Sh. Iqbal Singh about meeting Sh. P.K. Singh and seeing of the relevant record in its custody were also found to be fabricated documents. It was found that signatures of Sh. Iqbal Singh were not genuine. No Society of this name existed. The Registrar of Cooperative Society held proceedings of revival. It was found that all those proceedings were fake proceedings as the persons allegedly called in the office of Registrar of Societies were not found in existence and no such proceedings were ever conducted. It was found that more than 50 affidavits were executed and filed in revival proceedings. These affidavits were dated 15th September, 1979 while the stamp papers for these affidavits were purchased on 6th March, 2003. Enrollment of 122 members was shown but there were no proceedings regarding their enrollments nor there were proceedings regarding resignation of 48 promoter members. Sh. Narayan Diwakar in its note dated 30th September, 2003 mentioned that verification of record has been done whereas no such verification was ever done. It was shown in proceedings that Sh. Mahavir Prasad, Secretary of Society had appeared whereas the investigation revealed that he was not even the member of Society and had not appeared before Sh. Narayan Diwakar. In the revival order passed by Sh. Narayan Diwakar for revival of this Society, Smt. Bhawana Chouhan, Steno, Grade III in the office of RCS was appointed as Election Officer to conduct elections of Managing Committee. She gave a report of conducting election, without an election having been even held. Fake minutes of Special General

Body Meeting were prepared showing presence of 43 members. The investigation revealed that the names of those persons present were written by accused Sh. Prem Narain Sharma and signatures on the minutes were forged and done by accused Sh. Prem Narain Sharma. Sh. Dinesh Kumar Aggarwal, Sh. Om Prakash and Sh. Ved Prakash, who were shown as elected office bearers were fictitious persons and non-existent. However, on the basis of all these forged proceedings, this Society stood revived and the real game started after revival of Society.

5. The investigation revealed that after revival of Society, this Society was passed on to Sh. Sanjeev Jain and his relatives and friends. Sh. Sanjeev Jain is an architect by profession. Sh. Rajiv Singhal is his employee. Mr. Amul Kumar Jain is a relative of accused, Sh. Sanjeev Jain. Sh. Amul Kumar Jain is son of Sh. Sushil Kumar Jain and accused Sanjeev Jain, Sh. Rajiv Singhal, Sh. Sushil Kumar Jain and Sh. Amul Kumar Jain all started operating the Society after its revival. Sh. Rajiv Singhal, Sh. Sushil Kumar Jain and Sh. Amul Kumar Jain were elected as Secretary, President and Treasurer of the Society respectively. The registered address of the Society was shifted to 195, Second Floor, Ram Vihar, New Delhi, that is, residence cum office of accused Sh. Sanjeev Jain. Fake documents were prepared of election of New Management Committee while no election of Society was ever held in which New Management Committee headed by Sh. Rajiv Singhal was elected. The Society never intimated to office of RCS about change of address from 103, Lalita Park, Shakarpur, New Delhi to 195, Second Floor, Ram Vihar, New Delhi. No proceedings of Management Committee/General Body Meeting regarding election of Management Committee headed by accused Sh. Rajiv Singhal and the resolution in respect of change of address was submitted to RCS. Enrolment of accused Rajiv Singhal, Sh. Sushil Kumar Jain and Sh. Amul Kumar were

also found approved by another fake committee shown to have been elected by Smt. Bhawana Chouhan. It was found that a list of 43 resigned members was submitted by accused Sh. Rajiv Chauhan vide letter dated 8th June, 2004 along with a copy of audit report for the year 2003-2004 and a copy of Management Committee election and a list of 43 enrolled members for approval of RCS office. RCS office issued a letter seeking original record in support of the enrollments and resignations. Photocopies of fake documents were filed including photocopies of 42 resignations and affidavits of 43 enrolled members. Copy of resignation letters containing resignations of Sh. Omi Lal, Sh. Rohtash Kumar, Sh. Rakesh Kumar, Sh. Ganga Charan Pandey, Sh. Budh Ram, Sh. Mahavir Prasad, Sh. H.K. Bhatt, Sh. Hari Chand and Smt. Shanti Mago were filed. These resignations were found to be forged and it was found that accused Sh. Prem Narain Sharma had verified the signatures of these members. The resignation letters of these members were also found in the hand of accused Sh. Prem Narain Sharma. Resignation of members Sh. Tej Pal Singh and Sh. Ved Prakash were found forged since these members were fictitious and non-existent. Most of the members enrolled after revival of Society were relatives, friends and employees of accused Sh. Sanjeev Jain. Registered address of Society was given as residence cum office of accused Sh. Sanjeev Jain. It is he who gave original documents to Sh. Satish Aggarwal, a private accountant for preparing audit records and the audit record of Society was prepared in the office of Sh. Sanjeev Jain. The amount deposited in RCS office as audit fee was also paid by accused Sh. Sanjeev Jain. The witnesses also disclosed that accused Sh. Sanjeev Jain was actively involved along with accused Sh. Prem Narain Sharma in the office of RCS for completing revival work of Society through accused Sh. Prem Narain Sharma although he was not a member of Society nor he was office bearer of Society.

6. The CBI after investigation concluded that Sh. Sanjeev Jain was controlling the decisions of revived Society and he was the person behind entire operation. He was arrayed as an accused. It is argued by counsel for the petitioner that Sh. Sanjeev Jain was not a member of Society. His signatures do not appear on any document and merely on the basis of flimsy evidence of making payment of audit fee or his address being given as address of Society shall not be sufficient to charge him. It is stated that the address of Society was not solely his address but it was also the address of Sh. Rajiv Singhal. Rajiv Singhal was not an employee of Sh. Sanjeev Jain but was an independent architect and was working from the same office. He submitted that a mere suspicion that Sh. Sanjeev Jain was the person behind revival of Society was not sufficient to charge Sh. Sanjeev Jain.

7. It is well settled law that conspiracies are not hatched in open to the knowledge of everyone. The evidence of conspiracy can be gathered from the chain of events and circumstances which throw light on the conspiracy. A person may not be directly involved in murder but he may hatch a conspiracy for murder of someone. He may hire killers for murder or he may hire agents from whom he may hire killers to murder someone. Such a person directly does not commit murder but it cannot be said that such a person cannot be booked for conspiracy of murder. In the present case, investigation has revealed that this Society was got revived by a fake person on the basis of forged and fake documents. It is obvious that in the garb of that fake person, there was some other person who was interested in revival of Society to take benefit of the revival. The evidence regarding acts and deeds of Sh. Sanjeev Jain and his close relatives and employees creates a grave suspicion that the person behind revival of Society was Sh. Sanjeev Jain. He himself did not come into lime light and made his close relatives and friends as the office

bearers and members. He himself remained in control of the situation through them by making his own office as registered office of the Society, by keeping all records in his registered office and by controlling Society indirectly. Evidence does not mean documentary and oral evidence only. The law also recognizes circumstantial evidence and if the chain of circumstances is so complete that a person's involvement in the crime is established, such evidence is also a good evidence.

8. I consider that the CBI has placed before learned Metropolitan Magistrate sufficient circumstantial evidence to show that beneficiaries were all friends and relatives of Sh. Sanjeev Jain and the controlling figure was Sh. Sanjeev Jain. I, therefore, consider that learned Special Judge (CBI) rightly set aside the order of discharging the petitioner passed by learned Metropolitan Magistrate and directed for framing charge against the accused/petitioner.

9. The present petition has no force and is hereby dismissed.

SHIV NARAYAN DHINGRA
[JUDGE]

JULY 26, 2010
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