

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

Date of Reserve: 13th August, 2010

Date of Order: 18th August, 2010

+ CrI. M.C. No. 2598/2010, CrI. M.A. No. 13649/2010

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18.08.2010

GHANSHYAM DASS

..... Petitioner

Through Mr A.S. Rana & Mr Rajiv Rana, Advs.

versus

STATE

..... Respondent

Through Mr Sunil Sharma, APP

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

1. By the present petition, the petitioner has assailed an order dated 23rd June, 2010, passed by learned Additional Sessions Judge, partly allowing the Revision Petition of the petitioner.

2. The brief facts necessary for the purpose of deciding this petition are that in FIR No. 360 of 1996, registered at Police Station Mehrauli under Sections 420/34 IPC read with Section 120-B IPC, police filed a charge-sheet on

completion of investigation. A supplementary charge-sheet was also filed by the police. In the charge-sheet police had mentioned names of several persons in Column No. 2, who were bonafide subsequent purchasers of the plots of land. Police could find material for trial only against accused Ran Singh, Satbir Singh, Dharam Singh and Karam Singh.

3. Vide order dated 5th May, 2001, the learned M.M. directed for issuance of summons to the accused persons sent for trial. It seems that the ministerial staff of the Court of learned M.M. issued summons to each and every person whose name was mentioned in the charge-sheet including those whose names were in Column No. 2. Vide order dated 4th February, 2008, the Court of M.M. observed that his predecessor had ordered for summoning Ran Singh, Satbir Singh, Karam Singh and Dharam Singh, who were the persons allegedly involved in unauthorized possession of the land, without consent or permission of lawful owner and who further sold the land by forging documents. No offence was made out against those persons who purchased the plots of land from these persons as they were the victims and they had no hand in forgery or cheating and that is why their names were mentioned in Column No. 2, but the ministerial wrongfully issued summons of the persons mentioned in Column No. 2, without any directions from the Court of M.M. Thus he discharged all those persons and ordered that process issued against

the persons named in Column No. 2 stood withdrawn. He also discussed whether charge was made out against those persons or not and after discussion found that no charge was made out against Karamvir Singh and Satbir Singh and hence Karamvir Singh and Satbir Singh were also discharged.

4. Against this order of MM, a Revision Petition was preferred by the complainant and the learned ASJ found that the order of learned MM dropping proceeding against persons mentioned in Column No. 2 wrongfully summoned by ministerial staff was correct. However, the ASJ did not agree that Satbir Singh and Karamvir Singh were not liable to be tried as no charge was made out. He after considering the material on record came to conclusion that Satbir Singh and Karamvir Singh were also liable to be charged for appropriate offences as made out from the charge-sheet.

5. The counsel for the petitioner submits that the persons who were subsequent purchasers should also have been summoned as accused since they purchased the property knowing fully well that the value of the property was much higher but it was being sold to them at lesser rate and the lesser rate was being quoted only because the persons selling the land were not the actual owners.

6. The court cannot raise such presumptions while considering charge. Charge has to be considered on the basis of facts as appearing on record. It is undisputed fact that the persons mentioned in Column No. 2 were those persons against whom police had not been able to find any evidence of their conniving with the other accused persons and they were bonafide purchasers of the plots. The Trial Court and the Court of ASJ were, therefore, right in holding that subsequent purchasers of plots were not liable to be prosecuted as no offence was found of their involvement in either cheating or conspiracy. I am fully agreement with the view taken by the Trial Court and the Court of learned ASJ. I find no reason to entertain this petition. The petition is hereby dismissed.

18th August, 2010
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SHIV NARAYAN DHINGRA, J.