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

+ **CRL.REV.P. 460/2011**

RAM SAROOP Petitioner
Through : Mr. Vikrant Dhama, Adv.
versus

STATE Respondent
Through : Ms. Rajdipa Behura, APP.

AND

+ **CRL.REV.P. 461/2011**

MAHABIR PRASAD RUNGTA Petitioner
Through : Mr. Vikrant Dhama, Adv.
versus

STATE Respondent
Through : Ms. Rajdipa Behura, APP.

% *Judgment delivered on: 21st November, 2011*

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

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

SURESH KAIT, J. (Oral)

1 Vide this common judgment, both the above mentioned

Criminal Revision Petitions being taken up for disposal.

2 Vide the instant petitions, the petitioners have assailed the order dated 27.04.2011 and Charge dated 13.07.2011.

3 Mr.Vikrant Dhama, learned counsel for the petitioners submit that the Court has passed the impugned order on charge considering the settled law into view that the court has power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against accused has been made out.

4 The facts of case in brief is that in March, 1995, Durga Finance Limited purchased 7,54,900 shares of RIL at a price of Rs.10/- per share and at a premium of Rs.50/- per share, amounting Rs.4,52,94,000/- . In May, 1995, the Durga Finance Ltd. was allotted the above said Shares. In November, 1997, Durga Finance Ltd. made a complaint to SEBI, that RIL has not delivered the shared to them. On 04.09.1998, Sh. Mangi Lal Aggarwal and Smt. Parwati Aggarwal, Directors, of Durga Finance Ltd. made a complaint against RIL, Sh.O.P. Tulisan, to Additional Commissioner of Police, Crime Branch, New Delhi.

5 On 30.11.1998, an FIR No. 565/98 was registered under Sections 409/420/468/471/120-B Indian Penal Code, 1860

6 On 27.04.2011, an order on charge was passed and consequently charges were framed under Section 409 Indian Penal Code, 1860 and in alternative under Section 420/468/471 Indian Penal Code, 1860

against the accused persons.

7 On 13.07.2011, charges under Section 409 Indian Penal Code, 1860 and in alternative under Section 420/468/471 Indian Penal Code, 1860 was framed by the Court of Ms.Ravinder Bedi, ACMM, Tis Hazari Courts, Delhi against the accused persons.

8 The trial court has recorded that material placed before it discloses great suspicion against the accused which has not been properly explained. It is further recorded that the court should not make a roving inquiry into the pros and cons of the matter and weigh the evidence as if it was conducting a trial. If on the basis of material on record, a Court could come to the conclusion that commission of the offence is a provable consequence, a case of framing of charge exists.

9 The trial court has also observed that at the initial stage, if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the court to say that there is no sufficient ground for proceeding against the accused.

10 The court further observed that as per allegations, the accused person in pursuance of conspiracy induced the complainant to invest huge amount, delayed delivery of shares and accused Mr. O.P. Tulsian obtained the shares from RIL on the basis of forged authority letter. The transferees of shares stated these shares having purchased from accused O.P. Tulsian and accused Sudip Kedia by paying money to them. These transferees were also the employees/relatives of accused

persons. The forged letter, forming the basis of delivery of shares of O.P. Tulsian also is addressed to accused M.P. Rungta. No mention is made about the authority letter of Parvati Aggarwal by accused persons in reply to legal notice of complainant issued in December 1996 to them. Accused Sudip Kedia collected money from buyers by selling these shares in connivance with O.P. Tulsian. This being the initial stage of the trial, the court is not supposed to decide whether the material collected by the investigating agency provides sufficient ground for conviction of the accused or whether the trial is sure to culminate in his conviction. What is required to be seen is whether there is strong suspicion which may lead to the court to think that there is ground for presuming that the accused has committed an offence.

11 Further, it is recorded, the submissions advanced by learned counsel for defence are in fact the probable defence of accused persons and which cannot be considered at this stage.

12 The material brought on record by the prosecution has to be accepted as the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. The trial court relied upon the judgment in cases of *Union of India v Prafulla Kumar* AIR 1979 Supreme Court 366; *State of Maharashtra and others v Som Nath Thapa and others* JT 1996 (4) SC 615 ; *State of Bihar v Ramesh Singh*, AIR 1977 SC 2018; (1977 CRI LJ 1606); *Umar Abdula Sakoor Sorathia v Intelligence Officer Narcotic Control Bureau* JT 1999 (5) SC 394; *Kallu Mal Gupta v State* 2000 AD Delhi 107.

13 Learned counsel for the petitioner submits that the authority letter dated 23.11.1995 addressed to Mr. MP Rungta, Vice Chairman, RIL is signed by Smt. Parwati Aggarwal as Director for Durga Finance Limited.

14 Mr. O.P. Tulsian, sold those shares to many persons numbering more than 100 and those persons have applied to RIL to transfer those shares in their names.

15 During the course of investigation, the alleged authority letter of Ms.Parwati Aggarwal, share transfer forms bearing signatures of Ms.Parwati Aggarwal 1,79,900 share certificates sold to different persons were seized from the office of Rungta Irrigation Limited. Admittedly and specimen writings and signatures of Parwati Aggarwal and Mr. O.P. Tulsian were obtained. The share transfer forms as well as the alleged forged authority letter bearing signatures of Parwati Aggarwal along with specimen signatures, admitted writings were sent to FSL for opinion and it was opined that the signatures of Parwati Aggarwal on the authority letter were not tallying and were forged. The signatures of Parwati Aggarwal on the share transfer forms were opined genuine. It was also opined that Mr. O.P. Tulsian's specimen signatures as Parwati Aggarwal did not tally with the forged signatures of Parwati Aggarwal.

16 I note that the petitioner has filed this petition when he is and was Chairman and Mr. M.P. Rungta was Vice-Chariman, who is party before this court in Criminal Revision Petition 461/2011.

17 On the other hand learned APP for State submits that at the initial stage, there is strong suspicion to consider that there is a ground of presumption that accused has committed an offence and the trial court has prima facie considered the subject matter and has perused the record as per the allegations in pursuance of conspiracy the accused persons obtained the shares from RIL on the basis of Authority Letter, the transferee of shares stated the fact of these shares having purchased from accused O.P. Tulsian by giving money to them. These transferees were also the employees, relatives of accused persons. The Authority Letter forming the basis of delivery of shares to accused O.P. Tulsian was also addressed to accused M.P. Rungta. There is no mention about the Authority Letter of Ms. Parwati Aggarwal in reply to legal notice issued in December, 1996.

18 It is also revealed that the accused persons in pursuance of the conspiracy induced the complainant to invest huge amount, then delayed delivery of shares as is evident from the letters written by Sanjay Rungta. Thereafter accused Mr. O.P. Tulsian obtained the shares from RIL on the basis of forged authority letter. The transferees of the shares examined in the case stated to have purchased the shares from accused Mr. O.P. Tulsian and co-accused Sudip Kedia and also paid money to them. No money was paid to Durga Finance Ltd. Mauritius, the company which owned the shares 90% of the equity of Apex Finance Ltd is owned by RIL and Rungta Project Ltd, where the accused persons Ram Saroop Rungta, M.P. Rungta and Sanjay Rungta are Chairman, Vice-chairman and Managing Director respectively and

accused Mr. O.P. Tulsian is the Chartered Accountant. The other transferees are also employees/relatives of the accused persons. The forged letter on the basis of which the shares were delivered to accused Mr. O.P. Tulsian and facilitated delivery was addressed to accused M.P. Rungta.

19 The complainant issued legal notice in December, 1996 to RIL through their Advocate with reference to delay in delivery of shares. RIL in their first reply to this notice mentioned that the shares were delivered to Mr. O.P. Tulsian but he did not mention about the Authority Letter of Parwati Aggarwal. Accused Sudip Kedia sold the shares in connivance with co-accused Mr. O.P. Tulsian and collected money from the buyers which was never paid to the share owner company i.e Durga Finance Ltd., Mariuius. However as per the mutual and verbal commitment the accused/promoters were required to pay a commission @ 4% per month and a refund of Rs.10/- per share to the complainant. Even this commitment was not fulfilled by the accused.

20 In support of his submission, learned APP has referred to letter dated 19.02.1996 issued by RIL.

21 In the abovesaid letter, stated as under:-

“O.P. Tulsian have obtained more than 500 blank transferee deeds itself signed by Ms. Parwati Aggarwal and that the father of Mr.Sanjay Rungta, Managing Director can prepare many persons who will sign as purchasers of their shares, which are lying with Managing Director of RIL and you have to work out a solution for showing

payments for the purchases, once we create problems for them, they will accept the lower price (around Rs.15-20) from us. Meanwhile, we will drive the market price to rock bottom. Let us teach them a lesson. Please let me know your complete planning. Lastly as desired by you in writing, my father has agreed to give you 20% of the total savings we make in this transaction”.

22 From all the discussions above, it is revealed that the petitioners are the main chain of the crime and they cannot be let free at this stage of trial.

23 The charge has already been framed, whatever evidence they want to lead in their support that can be tested during trial. In the revision, each and every document cannot be scrutinized, as powers in revision are very limited, therefore, I am not inclined to interfere in the order of charge passed by learned Trial Judge. I do not find any infirmity in the impugned order dated 27.04.2011, and the same is confirmed.

24 Accordingly, both the Criminal Revision Petitions 460/2011 and 461/2011 are dismissed.

25 No orders as to costs.

SURESH KAIT, J

NOVEMBER 21, 2011

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