

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRM-M-1032-2015 (O&M)

Sita Rani and another

..... Petitioners

Versus

State of Punjab

..... Respondent

2. CRM-M-26103-2015

Sudhir Mundra and others

..... Petitioners

Versus

State of Punjab

..... Respondent

Date of decision: 24.08.2015

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

PRESENT: Mr. Naveen Sharma, Advocate
for the petitioners (in CRM-M-1032-2015).

Mr. Bipan Ghai, Senior Advocate with
Mr. Vishvadeep Virk, Advocate
for the petitioners (in CRM-M-26103-2015).

Mr. Gazi Mohd., DAG, Punjab.

Mr. Gurcharan Dass, Advocate for the complainant.

R.P. NAGRATH, J.

CRM-27447-2015 in CRM-M-1032-2015

Application is allowed as prayed for.

Documents Annexures P-9 (Colly.) and P-10 are taken on
record, subject to all just exceptions.

CRM-M-1032-2015

This order shall dispose of two petitions filed under Section

438 Cr.P.C. bearing CRM-M-1032-2015, by petitioners, namely; Sita Rani and Bimal Sharma @ Bimal Kumar and CRM-M-26103-2015, by petitioners-Sudhir Mundra, Asha Sudhir Mundra and Mahender Kumar Bhutra, seeking anticipatory bail in FIR No. 261 dated 12.09.2011 registered under Sections 468/420/467/471/120-B of the Indian Penal Code at Police Station Deogarh, District Rajsamand (Rajasthan) now transferred to Police Station Shimlapuri, District Ludhiana. For brevity, the facts are being extracted from CRM-M-1032-2015.

2. The FIR was recorded on the statement of Narayan Singh against the above-stated five petitioners. It was stated that complainant-Narayan Singh, Uma Shanker and Jitender Kumar entered into an agreement dated 04.07.2005 with Bimal Sharma @ Bimal Kumar-petitioner No. 2 (in CRM-M-1032-2015) in respect of Mine, M.L. No. 1/1992, 37.0593 hectares of M/s JBM Enterprises Ltd. The petitioner No. 2 (in CRM-M-1032-2015) inducted the complainant and aforesaid two persons, in the said mining business to the extent of 25% share each and received an amount of ₹ 5,25,000/- from them. It was stipulated that petitioner No. 2-Bimal Sharma @ Bimal Kumar shall be responsible for paying the share of 25% to each of those persons and they were also made the Directors of Company. On the same day, petitioner No. 2 handed over the power of attorney in respect of said mining to one Chandu Lal Beeram and the complainant. It was stated that the aforesaid firm M/s JBM Enterprises was got registered on 01.09.2008. In the said document of registration, petitioner No. 2-Bimal Sharma @ Bimal Kumar and his wife Sita Rani-petitioner No. 1 and the aforesaid three persons

were shown as Directors. It was further stated that both the petitioners in conspiracy and to cheat them forged the documents of resignation with forged signatures of complainant in a computerized manner on 13.06.2011 and excluded their names from the company. It was also stated that petitioners (in CRM-M-1032-2015) after forging and fabricating the resignation letters, sent the same to the office of Registrar of Companies whereas the complainant and other two persons were stated to be in complete possession of the whole mining business. It was further stated that petitioners (in CRM-M-1032-2015) then inducted the three petitioners, namely; Sudhir Mundra, Asha Sudhir Mundra and Mahender Kumar Bhutra (in CRM-M-26103-2015) as directors of Company in an illegal manner. It was, thus, stated that the petitioners (in CRM-M-26103-2015) are stated to have helped Sita Rani and Bimal Sharma @ Bimal Kumar-petitioners in their illegal act.

3. I have heard learned senior counsel for the petitioners (in CRM-M-1032-2015), learned senior counsel for petitioners (in CRM-M-26103-2015), learned State counsel assisted by learned counsel for the complainant and perused the paper-books.

4. Learned State counsel submits that the specimen signatures of complainant and two other aggrieved Directors were compared with the signatures on resignation letters sent to the office of Registrar of Companies and the report has been received from Forensic Science Laboratory, forming the opinion that these are the forged and fabricated signatures.

5. Learned senior counsel for petitioners in CRM-M-26103-

2015 submits that the petitioners, namely; Sudhir Mundra, Asha Sudhir Mundra and Mahender Kumar Bhutra were inducted into the Company later on and have no role to play with regard to resignation of complainant and others.

6. It was also submitted by learned counsel for petitioners in CRM-M-1032-2015 that the petitioners are ready to join the investigation and co-operate with the same. It was also contended that the complainant party was not interested in running of business and prepared record in order to falsely implicate the petitioners. Learned counsel further contended that the petitioners are always prepared to give their own specimen signatures for comparison.

7. This is a case registered in the year 2011, on a complaint filed before a Magistrate in terms of Section 156 (3) Cr.P.C. It is submitted that petitioners, namely; Sita Rani and Bimal Sharma @ Bimal Kumar (in CRM-M-1032-2015) even filed SB Criminal Miscellaneous Petition No. 1072 of 2012, for quashing of FIR in the High Court of Judicature, Rajasthan and the order dated 23.05.2012 (Annexure P-3) was passed whereunder the petitioners were directed to appear before the Investigating Officer on or before 20.06.2012. The Investigating Officer was directed to make complete investigation from them and to take on record all the relevant documents. It was further directed till the next date, no coercive steps be taken against the petitioners. Ultimately, that petition was disposed of by the High Court of Rajasthan, on 29.10.2014 (Annexure P-5) by observing that the FIR be transferred to Ludhiana where the Company's head quarter is located or at Chandigarh. The SHO,

Police Station Deogarh, District Rajsamand (Rajasthan) was directed to forward the complete file of FIR to appropriate police station at Ludhiana or at Chandigarh, where the office of Registrar of Companies is located.

8. Learned senior counsel for the petitioners referred to a letter of Registrar of Companies, Punjab dated 25.01.2012 (Annexure P-6) addressed to the Regional Director (N.R.), Ministry of Corporation Affairs, Noida (U.P.), on the complaint made against M/s JBM Enterprises in this regard. It was observed by Registrar of Companies that the reply of Company was sent to the complainants by speed post for comments but no comments were received. Since the complainants were not making any comment on the reply of Company, it was not possible to pursue the complaint any more. The complainant have also filed a civil suit (Annexure P-7) for permanent injunction in the month of November, 2011 before the Civil Courts at Sojat (Rajasthan), with a prayer for restraining the accused-petitioners from interfering in any type of mining lease during the pendency of said suit.

9. Having given my thoughtful consideration to the facts of the case, I find that the present case rests on documentary evidence which has been collected by the Investigating Agency and custodial interrogation of petitioners after four years of registration of FIR does not seem to be required.

10. Learned counsel for the complainant submitted that the accused persons have now shifted the head office to Maharashtra so that the documents are not available with the office of Registrar of Companies, Chandigarh. For that the investigating agency would ensure

that the necessary documents to be proved during trial are properly preserved.

11. On instructions from ASI Saudagar Ali, learned State counsel submits that petitioners, namely; Sita Rani and Bimal Sharma @ Bimal Kumar, have joined the investigation on 26.05.2015.

12. Without expressing any opinion on merits of the case, both the petitions i.e. CRM-1032-2015 filed by Sita Rani and Bimal Sharma @ Bimal Kumar and CRM-M-26103-2015 filed by Sudhir Mundra, Asha Sudhir Mundra and Mahender Kumar Bhutra, are allowed. The interim bail granted to petitioners, namely; Sita Rani and Bimal Sharma @ Bimal Kumar, on 14.05.2015 (in CRM-M-1032-2015) is made absolute.

13. The petitioners, Sudhir Mundra, Asha Sudhir Mundra and Mahender Kumar Bhutra (in CRM-M-26103-2015) are directed to appear before the before Investigating Officer/Investigating Agency on 07.09.2015 between 10.00 a.m. to 2.00 p.m. and on doing so, they be admitted to bail on furnishing bail bonds to the satisfaction of Investigating Officer. All the five petitioners (in both cases) are directed to co-operate with the investigation and keep on joining the same as and when required. All the petitioners directed to abide by the conditions laid down in Section 438 (2) Cr.P.C.

14. In case, the petitioners (in CRM-M-26103-2015) fail to appear before the Investigating Officer/Investigating Agency on the stipulated date and time, the concession granted to them by this order shall stand vacated.

August 24, 2015
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(R.P. NAGRATH)
JUDGE