

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

RESERVED ON : FEBRUARY 06, 2015

DECIDED ON : FEBRUARY 18, 2015

+ CRL.M.C. 957/2013 & CrI.M.A.3019/2013 (Stay)

KALAWATI @ CHANDER KALA

..... Petitioner

Through : Mr.P.N.Dhar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through : Mr.Navin K.Jha, APP.

**Mr.Jawahar Chawla, Advocate for
R-2 and 3.**

**ASI Dharampal Singh, PS Keshav
Puram.**

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. The petitioner-Kalawati @ Chander Kala has filed the present petition under Section 482 read with Section 401 Cr.P.C. to set aside order dated 21.08.2012 passed by the learned ASJ-1, Outer Rohini, Delhi by which the respondent Nos.2 and 3 were discharged. The petition is contested by them.

2. I have heard the learned counsel for the parties and have examined the record. The FIR was lodged on the directions of the court in

complaint case instituted by the petitioner against Bhim Singh Sharma, Yogesh Kumar and Latika alleging that Bhim Singh Sharma, her husband, forged documents regarding the property in question and transferred the same in the name of Yogesh Kumar and Lalita. After investigation, a charge-sheet was filed by the police against them along with Bhu Dev Singh. The learned Metropolitan Magistrate framed charge against all of them by an order dated 01.06.2010. The respondent Nos.2 and 3 challenged the order and the learned Additional Sessions Judge by the impugned order dated 21.08.2012 discharged them. Being aggrieved and dissatisfied, the complainant has filed the present petition. It is relevant to note that the State did not challenge the discharge.

3. In the complaint case filed in the court under Section 200 Cr.P.C., the petitioner did not level any allegations against the respondents for their involvement in the crime. During investigation, it revealed that the respondents were attesting witnesses to certain documents executed by Bhu Dev Singh in favour of Yogesh Kumar Sharma and Smt.Lalita. It further transpired that Bhim Singh Sharma, petitioner's husband, had forged power of attorney and other documents dated 20.09.1980 and had transferred the property in question in favour of Bhu Dev Singh. Bhu Dev Singh further transferred the said property in the name of Yogesh Kumar

Sharma and Smt.Lalita. The respondents were only attesting witnesses to the documents executed by Bhu Dev Singh in favour of Yogesh Kumar Sharma and Lalita. There is nothing on record to show if they had conspired with Bhim Singh Sharma or Bhu Dev Singh to forge and fabricate the documents to transfer the property in question in favour of Yogesh Kumar Sharma and Lalita. Apparently, they are not the beneficiary. Undisputedly, they are related to Yogesh Kumar Sharma and Lalita. Under these circumstances, putting signatures as attesting witnesses simplicitor on certain documents, is not enough to infer their conspiracy in the transaction. The learned Sessions Judge has noted that the attesting witnesses to the forged General Power of Attorney dated 20.09.1980 were not arrayed as accused. Similarly other attesting witnesses i.e.Radhey Sham Sharma and Prem Chand Sharma were not implicated. There were no allegations if the documents executed by Bhu Dev Singh in favour of Yogesh Kumar Sharma and Lalita were forged or fabricated. As per the complainant/petitioner, her husband Bhim Singh Sharma forged power of attorney dated 20.09.1980 and other documents to transfer the property in question. The said forged power of attorney was used to execute certain documents in favour of Bhu Dev Singh to which the respondents were not party.

4. The Trial Court has considered all the relevant contention of the petitioner and did not find any material to proceed against them. The impugned order is based upon fair appreciation of the evidence collected on record and warrants no interference.

5. The petition lacks merits and is dismissed.

6. Trial court record (if any) be sent back along with a copy of this order.

(S.P.GARG)
JUDGE

FEBRUARY 18, 2015

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