

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C.709/2012 & Crl.M.As.2499/12, 6561/12**

NAVIN SONIPetitioner
Through: Mr. Vikas Arora, Advocate

versus

STATE & ANR.Respondents
Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for Respondent-
State with SI Nafe Singh
Mr. Ajay Burman, Mr. Rajan
Chawla & Mr. Aditya Swarup,
Advocates for respondent No.2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
09.03.2015

1. On petitioner's complaint about loss/missing of a signed blank cheque, FIR No.270/2000 was registered at P.S. Kirti Nagar, Delhi on 16th May, 2000. During investigation, it was found that alleged missing cheque in question was given by petitioner himself to Mr. R.P. Malik towards sale consideration of ₹15 lacs in pursuance to Sale-Purchase Agreement of 14th January, 1998 with letter of 5th March, 1998 and it transpired during the course of investigation, carried out by the Crime Branch that petitioner had himself signed the aforesaid Sale-Purchase Agreement on his behalf and on behalf of his parents and no evidence was found against aforesaid R.P. Malik. Thus, a cancellation report was filed in this FIR case, which was accepted by trial court on 5th February, 2002. However, the revisional court had remanded the matter back to

trial court. Again vide order of 24th August, 2004, the cancellation report was accepted by trial court and petitioner's revision against the said order stands dismissed vide impugned order of 17th February, 2011.

2. In this petition, trial court's order of 24th August, 2004 as well as revisional court's order of 17th February, 2011 is assailed by learned counsel for petitioner on the ground that both the courts below have analysed the material on record as if the case is at the final stage of trial and have gone to the extent of returning a finding that petitioner's complaint is false. It was submitted that the courts below have not opined that no cognizable offence is made out and so, the impugned orders are liable to be quashed as the probative value of the material on record cannot be gone into at this initial stage.

3. It was pointed out that the FSL report has been blindly relied upon although it suffers from inherent contradictions and defects and so, petitioner ought to have been given a chance to prove his case while treating petitioner's protest petition as a complaint case. In support of above submissions, reliance is placed upon decisions in *M/s. India Craft Pvt. Ltd. V. State of Karnataka and Another* (1989) 2 SCC 132, *Hemant Dhasmana v. Central Bureau of Investigation and Another* (2001) 7 SCC 536, *Mahesh Chand v. B. Janardhan Reddy and Another* (2003) 1 SCC 734, *Popular Muthiah v. State represented by Inspector of Police* (2006) 7 SCC 296, *Kishan Lal v. Dharmendra Bafna and Another* (2009) 7 SCC 685 and *Vani Whig v. Ramesh Thakur & Anr. Etc. Etc.* Criminal Appeal No(s). 1729-1731 of 2014 decided on 14th August, 2014.

4. This petition is stoutly resisted by learned counsel for respondent-complainant on the ground that the bald allegations made by petitioner in

his complaint stand contradicted by the FSL report and that the dishonour of the cheque in question was not on account of '*Stop Payment*' but was due to '*Insufficient Funds*'. It was pointed out that petitioner had not produced the cheque book with counter foils and had he done so, then he would have been exposed completely.

5. It was also pointed out that there was no corresponding entry in the DD Register regarding petitioner making complaint regarding loss of cheque. Reliance was placed upon decisions in *Krishnan & Another v. Krishna Veni & Another* (1997) Criminal, SCC 544; *Kailash Verma v. Punjab State Civil Supplied Corporation and Another* (2005) 1 JCC 209 and *Central Economic Intelligence Bureau v. State of Delhi & Ors.* (2011) 1 JCC 486 to submit that no case for invoking the inherent jurisdiction of this Court under Section 482 of Cr.P.C. is made out as the impugned orders do not suffer from any illegality or perversity.

6. The submissions advanced by both the sides, impugned orders, the material on record and the decisions cited have been duly considered and thereupon, it becomes evident that although the tone and tenor of the impugned orders is strongly worded, but the sum and substance of the impugned orders is that the material collected during the course of investigation, which includes the FSL report, does not justify filing of the charge-sheet against respondent No.2 herein.

7. No doubt, probative value of the material on record is not to be gone into at this stage, but upon independent application of mind to the facts brought out in the cancellation report, this Court is of the considered opinion that it would be futile to treat the protest petition as a complaint case because no cognizable offence is made out. The legal

proposition as spelt out in the decisions relied upon by petitioner needs no reiteration.

8. During the course of hearing, it is not shown as to what was the legal infirmity in the FSL report. In the face of the FSL report, it cannot be said that a prima facie case is made out against respondent No.2 herein. Acceptance of the cancellation report by the courts below does not result in miscarriage of justice.

9. Consequentially, this petition and the applications are dismissed being without merit.

(SUNIL GAUR)
JUDGE

MARCH 09, 2015

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