

#14-16 (Common Order)

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

Date of decision: 22nd September, 2015

+ BAIL APPLICATION 1318/2015 and Crl. MA 9601-9602/2015

KUNJAN SAINI & ANR Applicants
Through Dr. Vijendra Mahndiyan, Advocate
versus

STATE OF NCT DELHI Respondent
Through Ms. Radhika Kolluru, APP for the State
SI Sanjay Kumar, P.S. Sunlight Colony
Mr. Jitto Joseph for Mr. M.R. Sisodia,
Advocate for the complainant

+ BAIL APPLN. 1444/2015

SHAKUNTALA SAINI Applicant
Through Dr. Vijendra Mahndiyan, Advocate
versus

STATE OF NCT Respondent
Through Ms. Radhika Kolluru, APP for the State
SI Sanjay Kumar, P.S. Sunlight Colony
Mr. Jitto Joseph for Mr. M.R. Sisodia,
Advocate for the complainant

+ BAIL APPLN. 1588/2015

RAJNI SAINIApplicant
Through Dr. Vijendra Mahndiyan, Advocate
versus

STATE OF NCT Respondent
Through Mr. Rajat Katyal, APP for the State
SI Sanjay Kumar, P.S. Sunlight Colony
Mr. Jitto Joseph for Mr. M.R. Sisodia,
Advocate for the complainant

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

1. The present are the applications under Section 438 of the Code of Criminal Procedure, 1973 seeking grant of pre-arrest bail for all of the four applicants herein namely Kunjan Saini, Tarun Saini, Shakuntala Saini and Rajni Saini in the subject FIR No. 397/2015 under Sections 120B/168/323/34/352/384/389/447/506 IPC registered at Police Station-Sunlight Colony, Delhi.

2. Dr. Vijendra Mahndiyan, learned counsel appearing on behalf of the applicants states that no offences under the provisions of Section 389 IPC are made out and the other sections under which the subject FIR has been registered are bailable offences. Learned counsel further states that the complainant herein Mr. Gobind Vashisht is himself a criminal. Learned counsel would urge that since the order passed by this Court granting interim protection to the applicants, they have joined investigation. However, learned counsel admits that no recovery has been made at the instance of the applicants.

3. The case of the prosecution is that the complainant Mr. Gobind Vashisht is the sole and exclusive owner of the property bearing No. 148,

Harinagar Ashram, New Delhi. The said property is an ancestral property and was in a dilapidated condition, therefore, the complainant was keen to carry out maintenance and repair work. The applicants prevented him from carrying out repair work on the said property and threatened him that they would report the matter to the police and file a false case against the complainant.

4. It is alleged that when the complainant approached the applicant-Rajni Saini to beseech her not to obstruct the repair work, she agreed to do so only on the condition that the complainant give her half portion in the said property or in the alternative, pay them a sum of Rs. 25 lakhs.

5. The applicant-Rajni Saini is also stated to have instituted a civil suit against the complainant alleging unauthorized construction in the aforesaid property.

6. Thereafter, the applicant-Rajni Saini approached the complainant once again and demanded payment of Rs. 25 lakhs in order to persuade her to withdraw the civil suit instituted by her against the latter. Ms. Rajni Saini is stated to have received part payment in the sum of Rs. 2 lakhs. The video recording of the said transaction, as allegedly recorded by one Shri

Dharmender Kaushik, R/o House No. 157, Harinagar Ashram, New Delhi is on record.

7. It is observed that the statement of Shri Dharmender Kaushik, the witness for the prosecution in the subject FIR has been recorded under Section 161 of the Code of Criminal Procedure, 1973. A perusal of the said statement reveals that he recorded the conversation between Mohan, Jaidev and the applicants- Rajni Saini, Tarun Saini and Kunjan Saini regarding the demand of money of Rs. 25 lakhs or portion of the land i.e. 18-20 yards by the applicants. The witness further deposed that the applicant-Kunjan Saini received Rs. 2 lakhs from the complainant in his presence.

8. During the course of investigation, public persons in the locality were examined and they have expressed in writing that the applicants herein instituted various suits against many persons with a view to extort money from the latter. The statements of the following persons have been recorded in this behalf:-

1. Govind Vashisht S/o Late Shri D.D. Sharma R/o House no. 148, Hari Nagar Ashram, New Delhi (Complainant)
2. Dharmender Kaushik S/o Late Shri Virender Kaushik R/o House No. 157, Hari Nagar Ashram, New Delhi (witness for Complainant)

3. A. Mohan Dass S/o Sh. K. Arumugham R/o House No. 659, Sunlight Colony part-2, New Delhi (witness for Complainant)

4. Jaidev Sharma, S/o Late Shri Ramanand Patwari, R/o House No. 128, Hari Nagar Ashram, New Delhi (witness for Complainant)

5. Bhram Dat Sharma S/o Late Shri Shrichand Sharma, R/o House No. 132, Hari Nagar Ashram, New Delhi (witness for Complainant)

6. Om Prakash Gupta S/o Shri Maidhan Dass Gupta, R/o House No. 9399, Gali No. 9, Multan Dhanda, Paharganj, New Delhi. (He stated that accused Shakuntla Saini filed civil suit against him and extorted Rs. 4 lakh)

7. Rajkumar Kaushik S/o Shri B.D. Kaushik, R/o House No. 180A, Hari Nagar Ashram, New Delhi (he complained against accused Shakuntla Saini & others for demanding money at the time for selling his property so buyers withdraw hand for purchasing the property)

9. It is therefore of no avail to the applicants to urge that they have joined investigation. They are prima facie guilty of the commission of an offence under the provision of Section 389 IPC.

10. In view of the gravity of the offence and prima facie case against the applicants, I do not think this is a fit case for grant of pre-arrest bail to all the four applicants herein.

11. The present bail applications are hereby dismissed.

SIDDHARTH MRIDUL, J

SEPTEMBER 22, 2015

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