* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ CRL.REVISION No.475/2015

Date of Decision:September 01, 2016

NARINDER KUMAR SIKKA ..... Petitioner

Through Mr.Deepak Gandhi, Adv.

versus

STATE (NCT OF DELHI) ...... Respondents

Through Mr.G.M.Farooqui, APP.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present revision petition has been filed under Sections 397/401 Cr.P.C. read with Section 482 Cr.P.C. for quashing of the order on charge dated 27.05.2015 passed by the learned CMM, New Delhi in FIR No.101/2005 registered under Sections 420/468/471/120B IPC, PS: Special Cell, Lodhi Colony, New Delhi.

2. The facts of the case in a nutshell are that on 30.06.2005 a complaint was made by Ms.Sumita Mukherji, Assistant to Police Liaison Officer, German Embassy, with the

police where it was alleged that the petitioner had presented an invitation letter from a German company namely TRIMET Handells GMBH and upon verification, it was found that the address and telephone number of the said company given in the invitation letter were fake as the actual company with the name of TEMIE Handel AG is located at Heinrichstr, 155 40239 Dusseldorf in Germany. In a telephonic verification, Mr. Heinrich of the said company confirmed that there was no person on their rolls with the name of Schneide/Schnelder and that the petitioner was not known to them. On the basis of the same, the present FIR was registered regarding the fact that the accused Tarun Sikka had come to the German Embassy to collect a passport and visa for his cousin Narender Kumar at German Embassy on the basis of forged/fake invitation letter. It was thus apparent that the petitioner had presented a letter of invitiation purported to have been received from a company in Germany for business transactions.

3. Based on the aforesaid allegations, after hearing the learned counsel for the parties, the Trial Court came to the

conclusion that though the offence complained of had not been accomplished, prima facie, there was sufficient incriminating ingredient warranting framing of charge under Sections 420/511, 468/511 and 471/511 IPC against the petitioner/Narender Kumar. Accordingly, charge was framed against the petitioner/Narender Kumar. Hence, the present petition.

4. The learned counsel for the petitioner in support of his petition has taken the grounds in the petition that the Trial Court has refused to consider the evidence collected by the Investigating Officer during further investigation, as prayed by the petitioner in his application dated 26.01.2011; that the German Embassy who are the complainants in this case, have confirmed the authenticity and truthfulness of the order passed by the German Court on 11.02.2014 against Ran Aloofi and thus proceeding with trial is a sheer wastage of judicial time of the court; that the letter of invitation dated 16.06.2005 sent by the customer through his company, which is allegedly forged and fabricated from the contents of the letter itself, makes it

clear that he was a new customer and the petitioner was not having any prior acquaintance with him. Moreover, the said letter is neither addressed to German Embassy nor is there any recommendation in the same for issuance of visa to the petitioner. Even on the basis of the business profile and financial credentials, the petitioner was entitled to the visa for the business purposes. There was no question or a compelling requirement for the petitioner in getting such a letter fabricated because even without the support of such a letter, there was no hindrance in issuance of visa to the petitioner; that the sender of the letter himself confessed before the court of law in Germany that wrong letter of invitation was sent by him (Ran Aloofi) and he has been suitably penalized by the court in Germany; that the letter received by the petitioner was a business invitation from the customer Ran Aloofi for promotion of business only and there was neither any *mens rea* on the part of the petitioner nor Mr. Aloofi was earlier known to the petitioner nor the petitioner was aware of his business address or phone numbers; that the petitioner attached the letter in a routine manner on bona fide belief presuming it to be true and genuine; that the petitioner had no control or even reason to disbelieve the correctness of the letter received by him; that no offence of cheating, forgery and using a forged document knowing and having reason to believe that the same was forged, is made out from the charge sheet; that the petitioner is a reputed manufacturer/exporter of vinyl products and had valid visa for many other countries including UK on the basis of his valid credentials and that the forgery of the disputed document is also not attributed to the petitioner.

5. Per contra, the learned APP for the State has submitted that the petitioner had cheated the complainant for the purpose of getting issued visa for himself on the basis of a fake invitation letter.

6. I have heard the learned counsel for the parties and perused the record.

7. This court has time and again pointed out that at the time of framing of charge, the court should not enter upon a process of evaluating the evidence by deciding its worth or credibility.

The limited exercise during that stage is to find out whether the material offered by the prosecution to be adduced as evidence is sufficient for the court to proceed further in the matter and while doing so, there is a ground to presume that the accused has committed an offence, then the court shall frame charge under Section 228 of the Cr.P.C. In the present case, there is a fake invitation letter which has been tendered on behalf of the petitioner for obtaining the German Visa purported to have been issued by a German company namely TRIMET Handells GMBH which on verification was found to be false inasmuch as the address and telephone numbers given on the invitation letter were fake as the actual company with the name of TEMIE Handel AG is located at Heinrichstr, 155 40239 Dusseldorf in Germany and in a telephonic verification, Mr. Heinrich of the said company confirmed that there was no person on their rolls with the name of Schneide/Schnelder and that the petitioner was not known to them. Thus, prima facie, there is sufficient material on record to frame charge against the petitioner.

8. In view of the aforesaid, this court does not find any infirmity or illegality with the impugned order dated 27.05.2015 so as to call for interference by this court.

9. The present petition is accordingly dismissed.

(P.S.TEJI)
JUDGE

SEPTEMBER 01, 2016
dm/dd