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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 1st August, 2018

+ CRL. M.C. 1081/2015

SATYAPAL @ PRINCE ..... Petitioner

Through: Mr. A.C. David & Smt. Sudha Saxena, Advs.

versus

STATE OF NCT OF DELHI & ANR. ..... Respondents

Through: Mr. Ashish Dutta, APP for the State with SI Hawa Singh, Crime Branch.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner was summoned as accused on the basis of supplementary report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted by the police in the wake of investigation into first information report (FIR No. 3/2014) of police station Crime Branch involving offences punishable under Sections 384/386/506/507/467/468/471/474/120B of Indian Penal Code, 1860 (IPC), Section 66 of Information Technology Act and Section 14 of Foreigners Act, 1946.

2. By the petition at hand, he invokes the jurisdiction of this Court under Section 482 Cr.P.C. to seek quashing of the proceedings in the criminal case against him claiming false implication. During the proceedings arising out of criminal case in the wake of summons issued, the question of charge was considered by the Chief Metropolitan Magistrate by order dated 03.12.2014, she opining that the petitioner

along with others who had been sent up for prosecution, were liable to be put on trial on charges properly made out. The petitioner also seeks to assail the said order on charge.

3. The FIR was registered on the complaint of Manish Talreja submitted on 06.01.2014 to the police raising grievances about he having received certain threatening messages (SMs) on his mobile phone no. 9811345745, from certain other mobile phones, such messages demanding money to be paid for his life to be spared, he having been asked to make deposit the money in a bank account which was specified as 913020054692894. The investigation brought out involvement of certain persons they including Vikas Sharma, Prakash Sharma and a foreign national named Ossazze Solomon Idehan. The investigation statedly also brought out that the SIM cards which had been used by the phone instruments for the extortion messages had been procured on the basis of forged and fabricated documents in the nature of Rent Agreement, Rent Receipts, PAN cards etc. from the shop of the petitioner it being named and styled as Krishna Telecommunications. It is on the basis of material confirming these facts that, by the supplementary charge-sheet, prosecution of the petitioner was sought on the allegations that he had aided and abetted the main conspirators in the crimes he having failed to abide by his responsibility as the distributor on behalf of the service provider to verify the genuineness of the documents relating to identity submitted at the time of issuance of the SIM cards.

4. The prosecution relies upon instructions issued on 09.08.2012 by the Department of Telecommunications in the Ministry of Communication and Information Technology of the Govt. of India, as

per clause 3(i) whereof the responsibility to verify the identity of the customer, proof of his address, as submitted with the customer application form, has been made that of the person at the point of sale, which, in the present case, would be the petitioner. It has been the argument of the petitioner that he was merely a retailer who was not accountable for the impersonation, or forgery of documents, submitted by the customer, his responsibility being only to pass on the customer's application form with the documents submitted therewith to the service provider who would be expected to carry out the verification.

5. In the face of the instructions issued by the Department of Telecommunication, as has been referred to above, the above explanation offered by the petitioner has been rejected by the Metropolitan Magistrate, and rightly so, in the opinion of this court, at the stage of consideration of charge.

6. In the face of the background facts and evidence which has been presented, the broad argument that the allegations are concocted and false cannot be accepted. A grave suspicion as to the complicity of the petitioner arises justifying the view taken by the court below in putting him on trial with the other accused.

7. The petition is dismissed.

R.K.GAUBA, J.

AUGUST 01, 2018/nvk