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

\+ BAIL APPLN. 696/2018, Crl. M.A. 29292/2018

SHIVENDRA PRATAP SINGH

..... Petitioner

Through: Mr. Arvind Kumar Tiwary, Adv.

Versus

STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP for State with SI Balbir Singh, P.S. Paschim Vihar.
Mr. P.D. Gupta, Sr. Adv. with Mr. Atul Gupta, Adv. for the complainant.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% **10.08.2018**

An adjournment is sought on account of indisposition of the learned Senior Advocate for the petitioner. However, the case is listed today because of a blatant non-compliance of direction given by this Court on 13.07.2018; that after the aforesaid order, the petitioner had submitted unregistered, unstamped documents claiming to be the owner of the said property. The police found that prima facie there is no transfer of the property mentioned therein by the erstwhile owner.

On 13.07.2018, the following order was passed:

"The petitioner seeks anticipatory bail in FIR No. 80/2018 registered under sections 420/34 IPC at Police Station – Paschim Vihar, Outer District, Delhi on the grievance of the complainant that the petitioner had duped him of Rs.1.8 crore; that the representations of the petitioner to the complainant that the said monies would be repaid to him from the sale of

construction debris has been belied. The petitioner was granted interim protection by this Court on 18.04.2018. However, the interim protection was withdrawn on 23.05.2018 because the petitioner did not comply with the terms and conditions of the order dated 18.04.2018.

The petitioner had approached the Supreme Court. His SLP was disposed off with the request that the bail petition itself be disposed off by today.

None appeared for the petitioner when the case was listed on 05.07.2018. Thereafter, the case was listed on 12.07.2018 i.e. yesterday when the following order was recorded:

"The learned Senior Advocate for the petitioner states that although the petitioner, to show his bona fide, had offered to deposit an amount of Rs.75 lacs within two weeks of order dated 18.04.2018, he has run into some financial difficulty and could not comply with the directions of this Court. He seeks time to obtain instructions about the manner in which the said order could be complied with.

At his request, re-notify on 13.07.2018."

The learned counsel for the petitioner submits that the case is more in the nature of a civil lis for which the complaint itself would not be maintainable. He submits that the genesis of the dispute is Annexure P-3 – a Joint Venture Agreement whereby an amount of Rs.1.8 crore was sent by the complainant to the petitioner's Partnership Firm i.e. M/S Green Live Infrastructure Development Corporation and after the monies were transferred into the account of the petitioner's aforesaid firm, they were immediately transferred to the account of M/s. Shapoorji Pallonji and Company Private Limited on the very same day.

He submits that the petitioner had lent the money in anticipation of a profit of Rs.20 lacs. The respondent could not have done so unless he had the permission under section 4 of the

Punjab Registration of Money Lender's Act, 1938, as applicable to Delhi. Therefore, under section 3 of the said Act, proceedings for recovery of the said monies is barred. The learned counsel states that the petitioner has no money to deposit and the offer of Rs.75 lacs was only to establish his bonafides. The intervening circumstances have rendered the petitioner in a financial difficulty due to which he is unable to deposit the said monies.

Mr. P.D. Gupta, the learned Senior Advocate for the respondent submits that the monies were lent to the petitioner on the basis of a Joint Venture Agreement; therefore, the aforementioned statute would not be applicable; that there was a deliberate misrepresentation by the petitioner due to which the complainant got induced to part with substantial amounts of monies, therefore the complaint would be maintainable and the money would be recoverable. He further submits that the removal and sale of debris from the project site, without any intimation to the respondent itself shows that the petitioner's actions were not above board. Furthermore, recoveries from the disposal of the said debris have not been reflected in the books of accounts of the petitioner nor has any such intimation been shared with the complainant, his Joint Venture partner.

For the grant of his Anticipatory Bail on 18.04.2018 the petitioner first offered to deposit Rs.75 lacs. He did not do so. The interim protection was cancelled. The Supreme Court did not grant him any relief. Yesterday the petitioner had sought time to intimate the Court as to how the said amount of Rs.75 lacs could be deposited, in instalments or otherwise, to establish his bonafides. Today, the Court is informed that the petitioner is unable to deposit any such money. The bona fide of the petitioner is in doubt. His conduct does not inspire confidence apropos his actions.

However, at this stage the learned counsel for the petitioner had sought a passover to obtain instructions. He states, upon instructions, that the petitioner is ready and willing to offer a security in the form of an unencumbered property at

Ghaziabad to prove the petitioner's bonafide that he will not evade the process of justice and would cooperate in the investigations.

The learned Senior Advocate for the petitioner states that the petitioner is the owner of the said property through a Power of Attorney. It is in exclusive and peaceful possession of the petitioner and there are no claims by any other party apropos the same. He submits that the petitioner shall join the investigations.

Let the original documents of the property be deposited in this Court within 7 days and a photocopy of the same be furnished to the Investigating Officer. The documents of title will be verified by the Investigating Officer. The petitioner shall appear before the Investigating Officer on 17th July, 2018 at 3.00 pm. In the event of arrest, he shall be released on bail on a surety bond of Rs. 50,000/- with one surety of the like amount to the satisfaction of the IO/SHO concerned.

The petition is disposed-off in above terms.

List for compliance on 23.07.2018.

Nothing stated in this order shall be deemed to be an adjudication on the merits of the case.

A copy of this order be given dasti to the parties under the signature of the Court Master."

Crl. M.A. 29292/2018 has been filed seeking replacement of the original documents deposited in the court with the original document of Leasehold Property/ Flats bearing No.695B and 696B, situated at Nyay Khand-II, Second Floor, Residential Colony Indirpuram, Ghaziabad, Tehsil and District Ghaziabad. The learned counsel for the petitioner admits that the said property is encumbered – it is mortgaged with the petitioner.

The case was listed on 03.08.2018 on which date, at petitioner's request it was listed on 06.08.2018. Therefore, the petitioner had sufficient time to prepare himself for today's appearance. Insofar as he has willingly failed to comply with the court's order and prima facie attempted to mislead the police officials and deceive the Court by submitting false and forged documents of a property of which he is not even in possession, the same would be of no value. In view of the above, the aforementioned application bearing Crl. M.A. 29292/2018 seeking replacement of the original document is dismissed; the bail bond of the petitioner is cancelled.

De hors the above, the Court is concerned with the documents submitted by the petitioner as security for his being granted which has prima facie been found to be forged, illegal and the property to be not in his possession. In view of the above, the Registrar General of this Court is directed to have an FIR registered against the petitioner for furnishing forged documents in respect of bail granted to him.

The petition is dismissed.

NAJMI WAZIRI, J.

AUGUST 10, 2018

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