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

+ CRL.M.C. 2217/2016 and Crl. M.A. 9326/2016

CHAITANYA BHARADWAJ Petitioner

Through: Mr. Saifi Ahmad, Advocate

versus

STATE (NCT OF DELHI) & ORS Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Rakesh Kumar

Mr. Jaideep Malik, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **06.12.2018**

On the complaint of the second respondent, first information report (FIR) 39/2008 was registered by the police station Crime Branch, it having eventually culminated in final report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.PC) presented in the court of the Chief Metropolitan Magistrate (CMM) seeking trial, amongst others, of the petitioner with accusations for offences under Section 420, 467, 468, 471, 474, 120B of the Indian Penal Code, 1860 (IPC). The CMM, by his order dated 26.02.2015, directed charges to be framed against the accused persons, the charge to be framed against the petitioner being for the offence under Section 120B read with Section 420 IPC and Section 34 IPC as also under Section 109

IPC. The charge framed against the other accused person were also similarly framed for various offences. The complainant (second respondent) feeling aggrieved had challenged the said order in the court of the Sessions by a criminal revision petition (no.35/2015), which was allowed by order dated 23.09.2015 in terms of which the petitioner has been directed to face trial on the charge for offence under Section 120 B IPC read with Sections 420, 467, 468, 471 and 474 IPC, the co-accused Mahabir Singh and Satbir Singh having been shown as party to the said criminal conspiracy, the additional charge directed to be framed being for the substantive offence under Section 420 IPC.

The present petition under Section 482 Cr. PC brings a challenge to the above said order of the revisional court.

Concededly, the earlier order of the CMM passed on 26.02.2015 directing charge to be framed against the petitioner was inclusive of the offence of criminal conspiracy under Section 120 B IPC, the common object whereof was to commit the offence of cheating. The said order was not challenged by the petitioner and, thus, would have attained finality. It is submitted that the trial is presently pending at the stage of prosecution evidence, some evidence having already been recorded.

As per the amended charge framed, on 08.04.2016, in the wake of directions of the revisional court, the petitioner is described as a person being party to the criminal conspiracy in the year 2007, alongwith co-accused Mahabir Singh and Satbir Singh, the object of

which criminal conspiracy was to cheat the complainant Narinder Kaur and pursuant to the said criminal conspiracy, she having been deceived and made to sign an agreement / receipt dated 19.11.2007 for sale of property bearing no.E-30, Western Avenue, Sainik Farm, New Delhi, an additional charge under Section 467 and 468 read with Section 120B IPC having been framed with the gravamen that the agreement to purchase the property and receipt-cum-agreement dated 19.11.2007 had been forged and fabricated in order to commit the said offence of cheating.

It is trite that the charge of criminal conspiracy as was framed by the Chief Metropolitan Magistrate, by his earlier order, which was modified by the revisional court, was based primarily on the evidence showing complicity of the petitioner in the criminal conspiracy with the said two other persons, the petitioner being also accountable for the acts of commission or omission on the part of the co-conspirator. In this view, the revisional court's order that the additional element of Section 467, 468, 471 and 474 IPC should be the part of the formulation of charge of criminal conspiracy cannot be faulted with.

The petition is devoid of substance and is dismissed. This disposes of the pending application as well.

R.K.GAUBA, J

DECEMBER 06, 2018

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