

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

% Decided on: 18th December, 2018

+ **W.P.(CRL) 3165/2018 and Crl.M.A. No. 34300/2018**

MANMEET SINGH JASPAL

..... Petitioner

Represented by: Mr. Jagat Rana and Mr. Nirmal
Goenka, Advocates.

versus

STATE & ANR.

..... Respondent

Represented by: Mr. Sanjay Lao, ASC for Ms. Kamna
Vohra, ASC with SI Devi Lal, PS
Maurya Enclave.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this petition, the petitioner inter-alia prays as under:-

a. Because the Ld. Trial Court erred by not perusing the record before passing the impugned order dated 17.10.2017. Because no complaint was ever filed by the respondent No. 2/ Complaint against the Petitioner. As such, he is neither named in the numerous complaints to the police, nor in the complaint u/s 156 (3) of the Cr.P.C., 1973 nor in the revision petition, nor in the FIR, nor in the first charge sheet filed against Tarvinder Singh. As such, the impugned order is grossly arbitrary, illegal, unjust, and violative of the principles of natural justice and in doing so, the court fell in grave error of law by not properly exercising the jurisdiction vested in it.

b. Because the Learned Trial Court passed the impugned order dated 17/10/2016 in most arbitrary and mechanical manner in complete contravention of the statutory law and material available on record.

2. On the last date of hearing when the matter came up before this Court learned ASC for the State pointed out that the petitioner had already preferred a petition seeking quashing of the FIR in question which prayer has been repeated in this writ petition. Thus this Court called for the file of CrI.M.C. 4847/2018 filed by the petitioner wherein prayer made by the petitioner was as under:-

a. Quash the FIR No. 436/2014 P.S. Maurya Enclave under Sections 420/467/468/471 IPC dated 12/06/2014. Along with all proceedings arising out of the supplementary charge sheet dated 25/05/2018 u/s 420, 468, 471, 120B, 174A/34 IPC of the IPC pending before the Learned ACMM Court, North West, Rohini, Delhi.

3. CrI.M.C. was permitted to be withdrawn by this Court on 26th September, 2018. Hence, the present petition seeking prayer (b) is not maintainable as the petitioner has already availed the said remedy.

4. In respect to the prayer (a) made in the petition seeking quashing/setting aside the order dated 17th October, 2017 whereby the petitioner has been declared a proclaimed offender, contention of the learned counsel for the petitioner is that the initiation of the proceedings under Section 82/83 Cr.P.C. itself is illegal as there was no credible information of

a cognizable offence which is a necessary ingredient for making arrest under Section 41(b) of the Cr.P.C. Learned counsel for the petitioner has relied upon the decision of the Supreme Court reported as (1994) 4 SCC 260 Joginder Kumar Vs. State of UP and Ors.

5. The allegations of the complainant, Manoj Rana, in the FIR based on the complaint dated 9th April, 2013 registered at PS Maurya Enclave are that he had entered into an agreement to sell and purchase dated 24th October, 2012 for purchase of first floor with roof rights of the property bearing No. QD-28, Pitampura for a sum of ₹6,37,50,000/- with Tarvinder Singh, son of Ram Singh resident of QD-28, Pitampura. The complainant paid a sum of ₹1,51,25,000/- to Tarvinder Singh. Later on enquiry it was revealed that Tarvinder Singh had no authority to sell the property.

6. The complainant demanded a sum of ₹3,02,50,000/- i.e. double the amount which he had paid to Tarvinder Singh whereafter matter between the Tarvinder Singh and the complainant was settled and Tarvinder Singh issued a cheque dated 4th February, 2013 for a sum of ₹1,28,00,000/-. When the said cheque was presented the same was dishonoured with the 'funds insufficient'.

7. During investigation it was revealed that on the Special Power of Attorney purportedly issued in favour of the petitioner, the property was transferred to Tarvinder Singh who entered into an agreement to sell and purchase. Ram Singh the original owner of the property and father of the petitioner and Tarvinder Singh and Smt. Kamaljeet Kaur, petitioner's mother filed a civil suit before this Court against Tarvinder Singh and the petitioner herein seeking declaration of the sale deed dated 24th July, 2012 as null and void being without authority.

8. From the stand of the father of the petitioner that no power of attorney was issued in favour of the petitioner, it is evident that during the course of investigation there was sufficient material with the investigating agency to come to the conclusion about the involvement of the petitioner and hence this Court finds no ground to allow prayer (a) in the writ petition.

9. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

DECEMBER 18, 2018

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