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

+ CRL.M.C. 6108/2018 & CRL.M.As.48646-47/2018

SUNIL GOEL

..... Petitioner

Through Ms.Sima Gulati with Mr.Sumit Saini
and Mr.Akshit Dua, Advs.

versus

STATE & ORS

..... Respondent

Through Mr.Mukesh Kumar, APP with Insp.
Amit Kumar, EOW.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **03.12.2018**

1. Vide the present petition, the petitioner seeks further investigation of FIR No.184/2010 u/s 465/467/468/120B IPC registered at P.S. EOW, New Delhi.

2. Ms.Sima Gulati, learned counsel for the petitioner submits that a partnership in the name of M/S Rational Enterprises had been entered between the petitioner and the respondent nos.2 & 3. She submits that due to manipulations being carried out by the respondent nos.2 & 3, a complaint was made by the petitioner at the P.S.Daryaganj alleging forging and manipulation of accounts of the firm by the respondent nos.2 & 3. However, since no cognizance was taken thereupon, the petitioner was compelled to approach the learned Additional Chief Metropolitan Magistrate by way of an application u/s 156 (3) CrPC, based upon which a direction was issued to the

Investigating Officer on 21.12.2010 to register a FIR against the respondent nos.2 and 3.

3. Ms. Gulati submits that subsequently, upon an application filed by the petitioner, the investigation was directed to be conducted under the supervision of the DCP, EOW on 26.09.2011. She further submits that even though, the petitioner had furnished the requisite documents clearly showing that the respondent nos.2 & 3 had repeatedly indulged in forging and manipulation of the firm's accounts, a Cancellation Report was filed by the investigating agency on 25.04.2013, compelling the petitioner to file a protest petition. Upon consideration of the protest petition, the learned Trial Court vide its order dated 02.11.2016 rejected the Cancellation Report and directed further investigation in the following terms:-

“ On appreciating the record, I have reached a conclusion that the matter calls for further investigation. I am of the considered opinion that investigation on the aspect of forgery has not been carried out in a meaningful manner. Although, the expert opinion on the signatures of complainant was awaited but surprisingly, the Investigating officer has filed closure report without waiting for the said result. Apart from this, no efforts were made to collect relevant documents from the concerned authorities. The relevant bank statements of the partnership firm were also not submitted. The closure report is rejected and the matter be sent back for further investigation. Further investigation report be submitted on or before 03.01.2017. It is clarified that nothing contained in this order should be taken to be an expression on the merits of the case.”

4. As a consequence of the aforesaid order, further investigation was carried out by the investigating agency and a charge-sheet was filed before the learned Trial Court on 03.08.2017. The petitioner's grievance however is that while filing the charge-sheet, the investigating officer deliberately did not take into consideration or

place on record numerous documents furnished by the petitioner.

5. Ms. Gulati submits that since according to the petitioner, while filing the charge-sheet the Investigating Officer deliberately did not file the available documents or incorporate all the relevant facts which were well within his knowledge, the petitioner was once again compelled to file a protest petition on 09.08.2017, which was rejected by the learned Trial Court vide its order dated 02.05.2018 thereby taking cognizance against the respondent nos.2 & 3 on the basis of the facts set out in the charge-sheet dated 03.08.2017. She further submits that aggrieved by the order passed by the learned Trial Court rejecting the protest petition, the petitioner approached the Revisional Court by way of CrI.Rev.P No.544/2018, wherein the learned Additional Sessions Judge has disposed of the Revision Petition with directions to the learned Trial Court to ensure the implementation of its own earlier order passed on 02.11.2016, but has failed to order further investigation as prayed for by the petitioner, thereby causing grave prejudice to him. It is in these circumstances that the petitioner has filed the present petition u/s 482 Cr.P.C. seeking further investigation of the aforesaid FIR.

6. Before dealing with the submissions of the learned counsel for the petitioner, it may be appropriate to refer to the directions issued by the learned Additional Sessions Judge on 28.08.2018 while disposing of the petitioner's revision petition, which read as under:-

“9. In the given circumstances, revision petition is disposed of with observation that learned Trial Court shall get its own earlier order dated 02.11.2016 implemented, by way of investigation on the point of forgery, so far as retirement deed is concerned. Learned Additional Chief Metropolitan Magistrate to give reasonable time to

Investigating Officer to conduct further investigation on this point.”

7. At this stage, Ms.Sima Gulati while conceding that the learned ASJ has directed the learned Trial Court to get its own earlier order dated 02.11.2016 implemented by way of ordering further investigation on the point of forgery, contends that the said order may not be sufficient for the learned Trial Court to direct the Investigating Officer to file all other relevant documents, which according to the petitioner are duly available with the Investigating Officer but have deliberately not been filed alongwith charge-sheet.

8. In my considered view, once the learned Trial Court has been specifically directed by the learned Additional Sessions Judge to comply with its earlier order dated 02.11.2016 by ensuring that the Investigating Officer conducts further investigation regarding forgery, the apprehension of the petitioner that the Investigating Officer will not place all the relevant documents or complete facts before the learned Trial Court, is in my opinion premature at this stage. It is, however, clarified that in case after further investigation in respect of the forgery is completed by the Investigating Officer in accordance with the directions of the learned ASJ and a report/supplementary charge-sheet, as the case may be is filed before the learned Trial Court, the petitioner would be at liberty to raise his grievance regarding non-filing of any alleged relevant documents by the Investigating Officer before the learned Trial Court.

9. The petition is disposed of with the aforesaid clarifications alongwith pending applications, if any.

DECEMBER 03, 2018

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REKHA PALLI, J