

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on : 29th November, 2017

Date of decision : 6th March, 2018

CRL.M.C. 4965/2017

SANJAY CHAUHAN

..... Petitioner

Through Mr. Sujit Gupta, Advocate

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Ashish Dutta, APP for
State with SI Naresh Kumar, PS
Connaught Place.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The petitioner Sanjay Chauhan assails the impugned order dated 28.02.2017 of the Court of the learned ASJ-02/FTC, Patiala House Court, New Delhi in Criminal Revision No. 14 of 2017, which upheld the order dated 28.04.2016 of the Court of the learned MM-01, Patiala House Court, New Delhi in relation to the FIR No. 192/08, registered at PS Connaught Place holding that a prima facie case was made out against the accused persons including the present petitioner qua the offences punishable under Sections 420/467/471/120B of the Indian Penal Code, 1860, it having been held vide the impugned order dated

28.04.2016 of the Court of learned MM-01, Patiala House Court, New Delhi that there are sufficient materials on record to frame the charges against the petitioner. The Trial Court Record has been requisitioned and perused.

2. The learned APP for the State was present on advance notice of the petition along with the Investigating Officer of the case SI Naresh Kumar of PS Connaught Place.

3. The facts in the instant case set forth in the impugned order dated 28.02.2017 of the Court of the learned ASJ-02/FTC, Patiala House Court, New Delhi in Criminal Revision No. 14 of 2017 and in the impugned order dated 28.04.2016 of the Court of learned MM-01, Patiala House Court, New Delhi are to the effect that the FIR in this case had been registered on a written complaint dated 02.03.1998 of M/s. Orient Travels Private Ltd. under the signatures of its Manager Sh. S.K. Seth, alleging that the petitioner Sanjay Chauhan, an employee of the said company, had asked Sh. S.K. Seth (informant) for a travellers cheque amounting to US\$ 8,500 for sale to Vijay Singh Randhawa of M/s. Modern Diagnostic & Imaging Centre. The details had been furnished on a letterhead of the said company with a cheque of Rs.3,17,337- drawn on the Punjab & Sindh Bank, Nehru Place. Sh. S.K. Seth handed over foreign exchange amount US\$ 8,500 to the petitioner for delivery to the customer. It is alleged that on 24.02.1998 the petitioner in the same manner took travellers cheques amounting to US\$ 20,000 this time for sale to Surinder Kumar and Tarsem Singh, stated to be executives of M/s. Modern Diagnostic & Imaging Centre. The request had again been made on the letter head of M/s. Modern

Diagnostic & Imaging Center along with two cheques dated 26.02.1998 amounting to Rs.4,17,028/- and Rs.3,97,500/- fraudulently representing that their employees had to go abroad for official purpose. The documents however were not accompanied with photocopies of the passports and photocopies of tickets of the said persons which was pointed to the petitioner but the petitioner assured Sh. S.K. Seth that he had already taken possession of the said documents which he would handover on the following day. It is further alleged that the cheques deposited in Punjab & Sind Bank were returned dishonored. Upon inquiry it came to light that M/s. Modern Diagnostic & Imaging Centre had already vacated its premises and the said three persons i.e. Vijay Singh Randhawa, Tarsem Singh and Surinder Kumar were not found employed with M/s. Modern Diagnostic & Imaging Center.

4. The learned MM-01, Patiala House Court, New Delhi vide order dated 28.04.2016 had observed to the effect that considering the facts of case, it is apparent that the complainant company would not have delivered the travellers cheques of the above said amount in US dollars, if it had not been so cheated upon inducement whereby wrongful loss was caused to the complainant and that the accused persons gained wrongfully. It was also observed that further allegations against the accused persons were that they conspired with each other along with the co-accused namely Chander Shekhar (already convicted vide order dated 14.02.2001 and Sushil (PO) and other unidentified persons, and forged the documents marked as Mark A, Mark B and Mark C, in the name of Vijay Singh Randhawa,

Tarsem Singh and Surinder Kumar to show that they were employees of M/s. Modern Diagnostic & Imaging Center for the purpose of committing cheating of the complainant and had allegedly used those forged documents which were marked as Mark A, Mark B and Mark C as genuine.

5. Through the present petition and through the arguments addressed on behalf of the petitioner, it was contended that the averments made in the complaint established the allegations only against the accused Vijay Singh Randhawa, the Director / the Proprietor of M/s. Modern Diagnostic & Imaging Centre and not against the petitioner herein and there were wholly false allegations against the petitioner herein, which were insufficient to conclude any conspiracy between the petitioner herein and the co-accused Dr. Chander Shekhar of M/s. Modern Diagnostic & Imaging Centre in as much as the said Dr. Chander Shekhar had pleaded guilty.

6. *Inter alia* it was submitted on behalf of the petitioner that the material on record before the learned Trial Court did not even raise a suspicion against the petitioner nor was there any suspicion brought forth in the complaint filed through its Manager. It was also submitted on behalf of the petitioner that the provisions of Section 471 of the Indian Penal Code, 1860 could not be invoked in as much as that required presentation by the petitioner herein of any document pretending it to be the genuine which though otherwise was a forged document and that the complainant had nowhere in its complaint stated that the petitioner even produced any document which was a forged document.

7. It is essential to observe that the complaint made by Sh. S.K. Seth, Manager of M/s. Modern Diagnostic & Imaging Centre dated 02.03.1998 which forms the basis of the registration of the FIR No. 192/08, registered at PS Connaught Place, under Sections 420/120B of the Indian Penal Code, 1860, clearly spells out prima facie the complicity of the petitioner herein, who was working in Executive-Forex on 23.02.1998 and had allegedly asked for the Travellers Cheque amounting to US\$ 8,500 for selling to Mr. Vijay Singh Randhawa of M/s. Modern Diagnostic & Imaging Centre and thus had furnished the necessary details on the letterhead of the company and enclosed the Cheque No. 247382 for Rs.3,17,337/- drawn on the Punjab & Sind Bank, Nehru Place and thus the foreign exchange as Travellers Cheque amounting to US\$ 8,500 as per the petitioner herein was delivered by him to the customer. The said cheque was deposited by the complainant in the Punjab & Sind Bank, Janpath on 24.02.1998.

8. The contents of the complaint dated 02.03.1998 have been stated in the impugned order dated 28.02.2017 of the Court of the learned ASJ-02/FTC, Patiala House Court, New Delhi in Criminal Revision No. 14 of 2017. The complaint of the complainant dated 02.03.1998 further prima facie stated to the effect that the Director / the Proprietor of M/s. Modern Diagnostic & Imaging Centre Dr. Chander Shekhar has wound up his office from the address 305, Onkardeep Building, A-19 (Middle Circle), Connaught Place, New Delhi and had also left his residence at B-58, DDA Flats, Vasant Vihar, New Delhi on 01.02.1998.

9. Vide the report of the Investigating Officer dated 04.03.1998 and the report dated 23.03.1998, the Duty Officer was directed to register an FIR under Section 420/120B of the Indian Penal Code, 1860. The specific allegations against the petitioner herein are that the petitioner in conspiracy with the other co-accused Vijay Singh Randhawa, the Director / the Proprietor of M/s. Modern Diagnostic & Imaging Centre induced the informant into handing over US\$ 8500 on the first occasion and US\$ 20,000 on the second occasion and that when on the second occasion Sh. S.K. Seth asked the petitioner about the air tickets and passport copies of the purported travellers / employees of Vijay Singh Randhawa, the Director / the Proprietor of M/s. Modern Diagnostic & Imaging Centre, the petitioner stated that he had already collected the said documents and will give it to him on the following day but these documents were never furnished and that the co-accused Dr. Chander Shekhar of Vijay Singh Randhawa, the Director / the Proprietor of M/s. Modern Diagnostic & Imaging Centre had already pleaded guilty and his confessional statement was also relevant with respect to the charges framed against the petitioner.

10. Significantly it is the petitioner, who is alleged to have collected the travellers cheques on behalf of the co-accused persons to be handed over to Vijay Singh Randhawa, the Director / the Proprietor of M/s. Modern Diagnostic & Imaging Centre and which cheques had been issued in lieu of travellers cheques bearing nos. 247383 and 247384 dated 26.02.1998 amount of Rs.4,17,028/- and Rs.3,97,500/- for US\$ 20,000, which were dishonored on presentation for encashment and that the Director / the Proprietor of M/s. Modern

Diagnostic & Imaging Centre Dr. Chander Shekhar had wound up his office from the address 305, Onkardeep Building, A-19 (Middle Circle), Connaught Place, New Delhi given to them and had also left his residence at B-58, DDA Flats, Vasant Vihar, New Delhi on 01.02.1998.

11. It is apparent thus that a prima facie case is clearly made out against the petitioner in as much as the complainant company would not have delivered the travellers cheques of the amounts in US dollars, if it had not been so cheated upon inducement on claiming that the documents showing Vijay Singh Randhawa, Tarsem Singh and Surinder Kumar to be the employees of M/s. Modern Diagnostic & Imaging Center were in fact false.

12. Thus it is apparent that there is no infirmity whatsoever in the impugned order dated 28.02.2017 of the Court of learned ASJ-02/FTC, Patiala House Court, New Delhi in Criminal Revision No. 14 of 2017, which upheld the order dated 28.04.2016 of the Court of learned MM-01, Patiala House Court, New Delhi holding that in relation to the FIR No. 192/08, registered at PS Connaught Place that a prima facie case for framing the charges under Sections 420/471/120B of the Indian Penal Code, 1860 was made out and thus the petition is dismissed to that extent. However, no prima facie case in the instant case can be held to have been made out qua the alleged commission of an offence punishable under Section 468 of the Indian Penal Code, 1860 and the charge framed in relation thereto against the petitioner is set aside. To this extent the petition is allowed.

13. Nothing stated here-in-above shall however affect the merits of

the case.

14. Copy of this order be sent to the learned Trial Court.

ANU MALHOTRA, J

MARCH 6th, 2018/mk

