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

% Judgment delivered on: 09.08.2019

+ CRL.M.C. 2994/2016

DEEPAK KHOSLA ..... Petitioner

versus

STATE OF NCT OF DELHI & ORS ..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Petitioner in person with Ms. Himani Kaushik,  
Advocate.

For the Respondent : Mr. Ashish Dutta, APP for the State  
Mr. Maninder Singh with Mr. Anand M. Mishra,  
Advocates for respondent Nos.2 to 5.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

**Crl.M.A.32362/2019/2019 (exemption)**

Exemption is allowed subject to all just exceptions.

**CRL.M.C. 2994/2016 & Crl.M.A.32361/2019 (for urgent disposal  
of the petition)**

1. Petitioner impugns order dated 23.07.2016 in CC No.64/3 (old number) and 511998/16 (new number) titled *Deepak Khosla vs. Vikram Bakshi & Ors.*

2. By the impugned order the complaint filed by the petitioner was dismissed on two counts, firstly on the ground that no document was produced on record to show that he was one of the shareholders of the subject Company and thus entitled to maintain a complaint under Section 621 of the Companies Act, 1956 and the second ground given by the Trial Court for dismissing the complaint was that the petitioner had filed an application under Section 340 (2) Cr.P.C. before the High Court alleging commission of act of perjury by the respondent. The Trial Court was of the view that since the High Court had directed a preliminary inquiry to be conducted by the Registrar (Vigilance) of the High Court and to submit a report thereon with regard to the allegations made by the petitioner and the matter is sub judice before the High Court, no direction could be issued by that Court on the same issues.

3. The petitioner, who appears in Court in person, submits that there were two similar complaints pending before the Trial Court, which were disposed of on the same day by identical orders, except that in the other complaint there was no findings returned by the Trial Court that petitioner had failed to produce any document to show that he was a shareholder and thus entitled to maintain an application under Section 621 of the Companies Act, 1956.

4. He submits that there was enough material placed before the Trial Court in the other petition to show that he has the locus standi to

maintain the complaint under Section 621 of the Companies Act, 1956.

5. It is pointed out by the petitioner that the proceedings of perjury, which were initially initiated before the High Court, now stand transferred to the National Company Law Tribunal in terms of the orders of the Supreme Court dated 08.05.2014 in SLP (Crl.) 6873/2010

6. Further, it is contended by the petitioner that Trial Court has further committed an error in holding that the issues raised before it by the subject complaint were pending before the High Court. He submits that what was filed before the High Court was an application under Section 340(2) Cr.P.C. alleging perjury on the part of the respondents of making false and incorrect statements before the Company Law Board and the issues raised in the present complaint were with regard to the forgery of documents and not with regard to the perjury or making of false statement before the Company Law Board. He submits that the allegation herein is the forgery of documents and use of those documents before various authorities and judicial proceedings.

7. He relies on the judgment of the Supreme Court in *Iqbal Singh Marwah vs. Meenakshi Marwah*: (2005) 4 SCC 370 to contend that he has an additional remedy of a complaint under Section 200 Cr.P.C. and also to maintain the present petition under Section 621 of the

Companies Act, 1956.

8. Petitioner submits that the Trial Court has committed an error in holding that there was an overlap in the application pending before the High Court as well as the present complaint.

9. Section 621 (1) of the Companies Act, 1956 reads as under:-

*“621. Offences against Act to be cognizable only on complaint by Registrar, shareholder or Government.*

*(1) No court shall take cognizance of any offence against this Act (other than an offence with respect to which proceedings are instituted under section 545), which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, or of a shareholder of the company, or of a person authorised by the Central Government in that behalf: Provided that nothing in this sub-section shall apply to a prosecution by a company of any of its officers.”*

10. Section 621 (1) of the Companies Act, 1956 mandates that no Court shall take cognizance of any offence against this act alleged to have been committed by any Company or any officer thereof except on the complaint in writing of the Registrar, or of a shareholder of the company, or of a person authorised by the Central Government in that behalf.

11. Petitioner claims to be a shareholder of the said Company. He also claims to be the husband of the deceased Mrs. Sonia Khosla, who

had originally filed the complaint.

12. Petitioner contends that on both counts he has a right to maintain the petition under Section 621 of the Companies Act, 1956 and the Trial Court has erred in not noticing that in the other complaint, which was disposed of on the same date by the same Court, there was sufficient material to show that he was a shareholder of the Company and thus entitled to maintain the complaint.

13. Further, perusal of the record shows that the averments made in the application, filed before the High Court, with regard to the alleged offence of perjury and also the averments made in the subject complaint shows that though may have some overlap but both raise different issues.

14. The Trial Court clearly has erred in not noticing the difference in the two complaints and also not noticing the submission of the petitioner that he has a right to maintain the complaint being a shareholder and also the legal heir of the deceased shareholder.

15. Further, there is no dispute that Mrs. Sonia Khosla was a shareholder of the Company and admittedly had never transferred 100% of the shareholding to the respondents.

16. In view of the above, I am of the view that the impugned order dated 23.07.2016 cannot be sustained. Accordingly, the impugned order dated 23.07.2016 is set aside. The matter is remitted to the Trial

Court for a fresh consideration. The Trial Court shall give an opportunity to the petitioner to place on record material to show his shareholding.

17. Petitioner shall appear before the court of the Chief Metropolitan Magistrate (Central) on 22.08.2019, who shall assign the case to the appropriate Court.

18. It is pointed by the petitioner, who appears in person, that another petition was remitted by this Court for a fresh consideration and the same was placed before the Chief Metropolitan Magistrate (Central), who marked it to Chief Metropolitan Magistrate (West) and the Chief Metropolitan Magistrate (West) for certain personal reasons recused from hearing the matter and the matter now stands transferred to Metropolitan Magistrate – 09 (West).

19. Petition and all the pending applications are, accordingly, disposed of.

20. It is clarified that this Court has neither considered nor commented upon the merits of the contention of either party and all rights and contentions of parties are reserved.

21. Order *Dasti* under signatures of the Court Master.

**AUGUST 09, 2019**  
**st**

**SANJEEV SACHDEVA, J**