

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

+ CRL.M.C.6302/2019, CRL.M.A. 9445/2020, CRL.M.A. 8117-8118/2020

Judgment reserved on : 17.07.2020

Date of decision: 22.12.2020

GUNVEEN SINGH

..... Petitioner

Through: Mr. Pramod Kumar Dubey, Mr. Sajal Dhamija, Ms. Neha Sharma, Mr. Anurag Andley, Ms. Harpreet Kalsi, Ms. Pinky Dubey and Mr. Prince Kumar, Advocates.

Versus

THE STATE (GOVT. OF NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Ashok Kumar Garg, APP for State.
Mr. Vikas Pahwa, Sr. Advocate with
Mr. A.N. Aggarwal, Ms. Nupur Sachdeva, Mr. Devki Nandan Mittal and Mr. Arham Masud, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The petitioner, vide the present petition has made the following prayers:-

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“a. Pass an order setting aside the Order dated 04.07.2019 passed by the Ld. MM-03, South West, Dwarka, New Delhi in case FIR No. 919/18 dated 31.10.2019 under Section 323/341/506 of the Indian Penal Code, 1860 Police Station Bindra Pur, New Delhi and the consequent proceedings emanating therefrom against the Petitioner.

b. Pass an order setting aside the Order dated 26.11.2019 passed by Ld. ASJ (SFTC), South West, Dwarka in case FIR No. 919/18 dated 31.10.2019 under Section 323/341/506 of the Indian Penal Code, 1860 Police Station Bindra Pur, New Delhi and the consequent proceedings emanating therefrom against the Petitioner.”

2. On a bare perusal of the record, it is indicated that the Ld. ASJ (SFTC), South West, Dwarka in CR No.312/2019 vide order dated 26.11.2019 had dismissed the said revision petition filed by the petitioner on the grounds of non-prosecution despite the applicant/petitioner having filed an application for adjournment submitting to the effect that the applicant was unable to put in appearance with a medical card having been produced on behalf of the petitioner. Vide the impugned order dated 26.11.2019, it is indicated that it was mentioned therein that costs imposed vide order dated 16.09.2019 had not been deposited.

3. The order dated 16.09.2019 in CR No.312/2019 indicates that the revisionist i.e. the petitioner herein was not present before the

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Revisional Court and one last opportunity was given to the revisionist i.e. the petitioner herein to appear before the Revisional Court subject to cost of Rs.10,000/- to be deposited with the DLSA. The revisionist did not appear before the Revisional Court even on the adjourned date i.e. 15.10.2019 and the matter was re-notified for the date 04.11.2019 and vide the impugned order dated 26.11.2019, the revision petition was dismissed for non-prosecution.

4. The petitioner vide the revision petition i.e. CR No.312/2019 had assailed the order dated 04.07.2019 of the learned Trial Court i.e. the Court of the Ld. MM-03, South West, Dwarka, New Delhi in case FIR No. 919/18, PS Binda Pur, whereby for non-compliance of directions in order dated 27.06.2019 by the petitioner i.e. the non payment of a sum of Rs.25 lakhs, subject to compliance of which condition the applicant/petitioner had been allowed to be released on interim bail, in as much as, the parties i.e. the petitioner herein, the accused and the complainant were stated to have arrived at a settlement whereby, the sum of Rs.3 Crores was to be paid by the petitioner herein to the complainant within a month from 27.06.2019,

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and in view of the non compliance by the petitioner herein, the interim protection had been withdrawn.

5. As per the order dated 04.07.2019, the petitioner did not appear before the learned Trial Court on 04.07.2019 and rather challenged the validity of the settlement on the premise that the aspect of restitution of property by the complainant in reciprocation to the payment of Rs.3 Crores by the accused was not incorporated in the proceedings of the previous date fixed by the Trial Court.

6. The proceedings in CR No.312/2019 indicate that the draft of Rs.25 lakhs was handed over to the complainant/respondent no.2 on 16.07.2019 in Court, which was accepted by the respondent no.2 and a submission had been made that the remaining amount from the balance sum of Rs.2.90 Crores would be paid at the time of the quashing of the FIR before the High Court of Delhi and that a formal settlement would be filed and as a consequence, the operation of the order dated 04.07.2019 before the learned MM had been stayed, whereafter, the matter had been re-notified for the date 05.08.2019 when counsel for both parties had submitted that talks for settlement were in progress, and the interim order was continued and the matter

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was re-notified for the date 03.09.2019 on which date, it was submitted that the matter had been settled and the MOU was being drawn but that the petitioner was not available, whereafter, the petitioner did not appear before the Revisional Court as already observed hereinabove on 16.09.2019 when costs of Rs.10,000/- were imposed and subsequently, the revision petition was dismissed for non-prosecution vide the impugned order dated 26.11.2019.

7. Apart from various submissions that have been made on behalf of the petitioner through the petition, it is apparent that the revision petition had virtually been heard at length on arguments addressed on behalf of either side by the Revisional Court. In the circumstances, it would suffice despite opposition raised on behalf of the respondent no.2 through the reply filed that on 25.11.2019, the petitioner had even handed over a cheque for a sum of Rs.2 Crores 65 Lakhs to the respondent no.2 in lieu of the settlement but in the evening of the same day, had conveyed to the respondent no.2 not to present the cheque before the bank as he could not arrange the funds, which brought forth the malicious conduct of the petitioner and it was contended on behalf of the respondent no.2 that the petitioner was making a mockery of the

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Court proceedings and was evading arrest apart from several criminal cases pending against the petitioner, taking the totality of the circumstances of the matter into account, in as much as, apparently as indicated even through the proceedings dated 16.07.2019 in CR No.312/2019, the settlement was undoubtedly in progress on that date also before the learned Revisional Court, it is considered appropriate to set aside the impugned order dated 26.11.2019 of the Revisional Court of the Ld. ASJ (SFTC), South West, Dwarka in CR No.312/2019, which order is set aside with the CR No.312/2019 being restored to its original stage and number subject to payment of costs of Rs.50,000/- being paid by the petitioner to the respondent no.2 on the date 15.01.2021 before the learned Revisional Court and till the disposal of CR No.312/2019 by the ASJ concerned, the interim order dated 06.12.2019 as passed in the present Crl.M.C.6302/2019 directing to the effect that the applicant be not arrested subject to his not leaving the city, shall continue.

8. The learned Revisional Court shall thereafter take up CR No.312/2019 for hearing and dispose of the same in accordance with law by the date 15.02.2021. No further action is called for in the

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circumstances qua prayer Clause (a) made through the present petition, in as much as, the order dated 04.07.2019 of the Ld. MM-03, South West, Dwarka, New Delhi in case FIR No. 919/18, PS Bindapur is under challenge in CR No.312/2019 before the learned Revisional Court of the Ld. ASJ (SFTC), South West, Dwarka, New Delhi.

9. The petition is disposed of accordingly.

10. Nothing stated hereinabove shall however amount to any expression on the merits or demerits of the petition CR No.312/2019 pending before the Ld. ASJ (SFTC), South West, Dwarka, New Delhi which has since been restored to its original stage and number and the petitioner is further directed to appear before the learned Revisional Court on the date 15.01.2021.

ANU MALHOTRA, J.

DECEMBER 22, 2020

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