

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

Date of Decision : 08.12.2021

+ CRL.M.C. 3186/2021

IN THE MATTER OF

SH. ANIL DUTT SHARMA

..... Petitioner

Through: Mr. Sudeep Dey, Advocate.

versus

THE STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Hirein Sharma, APP for State.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

CRL.M.A. 19661/2021 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 3186/2021

1. The present petition has been filed under Section 482 Cr.P.C. on behalf of the petitioner seeking setting aside of the order dated 04th February, 2020 passed by the learned Additional Sessions Judge-02, E-Court, Shahdara, Karkardooma Courts, Delhi in CRL.(R) No. 55/2019 arising out of FIR No. 377/2009 registered under Sections 420/34 IPC at P.S. Anand Vihar, Delhi, and the order dated 3rd June, 2019 passed by the learned ACMM, Shahdara, Karkardooma Courts, Delhi in the said FIR. Vide order dated 3rd June, 2019, the petitioner's protest petition

filed against the cancellation report was dismissed by the learned ACMM and the said order was upheld by the learned ASJ vide order dated 4th February, 2020.

2. Brief facts of the case are that the present FIR came to be registered on 22nd August, 2009 at the instance of the petitioner against his mother *Smt. Ved Kumari*, his brothers *Sh. Mohan Dutt Sharma*, *Sh. Vijay Dutt Sharma* and *Sh. Yag Dutt Sharma*, and others, namely *Smt. Poonam Sharma* (w/o *Sh. Mohan Dutt Sharma*) and *Pramila*. In the said FIR, it was alleged that the aforementioned accused persons had entered into a conspiracy and got transferred one industrial plot bearing *No. 2220, Pocket I, Narela, New Delhi*, which was allotted to the petitioner's father *Late Sh. B.D. Sharma*, in the name of his mother *Smt. Ved Kumari*, by executing a forged and fabricated Will of *Late Sh. B.D. Sharma*, to the exclusion of the petitioner and his elder brother *Sh. D.D. Sharma*. It was further alleged that besides the aforesaid property, certain shares, bank account and other properties were also got transferred on the basis of forged documents, on which forged signatures of *Late Sh. B.D. Sharma* were appended. The petitioner had also alleged that *Smt. Ved Kumari* had filed a false affidavit dated 19th December, 2000 before the DSIIDC, wherein the names of legal heirs of *Late Sh. B.D. Sharma* were not properly mentioned, as the names of the petitioner and his elder brother *Sh. D.D. Sharma* were deliberately dropped.

During investigation, the aforesaid Will, alongwith admitted signatures of *Late Sh. B.D. Sharma*, was sent by the Investigating Officer to FSL. On receipt of the FSL Report, a cancellation report came to be filed, primarily on the ground that the signatures on the aforesaid Will were opined to be original. Aggrieved by the same, the petitioner preferred a protest petition dated 30th July, 2016, which was dismissed by the learned ACMM and the cancellation report accepted vide order dated 3rd June, 2019. A revision petition was filed by the petitioner against

the order of the learned ACMM, but the same also came to be dismissed vide the impugned order dated 4th February, 2000.

3. Mr. Sudeep Dey, learned counsel for the petitioner, submits that in the complaint, it was alleged that the petitioner's father *Late Sh. B.D. Sharma* owned an industrial plot bearing *No. 2220, Pocket I, Narela, New Delhi*, which was got transferred from DSIIDC in the name of the petitioner's mother on the basis of a false affidavit and a forged and fabricated Will. He further submits that at the time of his demise, *Late Sh. B.D. Sharma* was survived by six legal heirs, but only four were named in the aforesaid affidavit by *Smt. Ved Kumari* and the names of the present petitioner as well as his elder brother *Sh. D.D. Sharma* were deliberately not mentioned as legal heirs of *Late Sh. B.D. Sharma*. Learned counsel also submitted that *Smt. Ved Kumari* later on submitted a rectified affidavit mentioning the names of all the legal heirs. He further submitted that it was also alleged in the complaint that the Will stated to be executed by *Late Sh. B.D. Sharma* was forged and fabricated as his signatures on the said Will were forged. Lastly, with respect to the cancellation report, learned counsel contended that the Investigating Officer did not investigate other aspects of the matter and restricted the enquiry to verification of the signatures appearing on the aforesaid Will.

4. Learned APP for the State, on the other hand, has opposed the present petition and supported the impugned orders. He submits that on the basis of the FSL Report, wherein it is stated that the signatures on the Will alleged to be forged and fabricated are original signatures of *Late Sh. B.D. Sharma*, both the Courts below have arrived at a consistent conclusion that no further investigation is required in the present case. It is further submitted that the allegations levelled in the FIR are centred on the imputation that the Will of *Late Sh. B.D. Sharma* is a forged document, and thus, the expert opinion from FSL, which does not support

the case of the petitioner, renders any further investigation unnecessary. He also submitted that the Investigating Officer in the present case had sent a notice to the Manager, DSIIDC calling for original affidavits and in reply, it was informed that subsequent rectified affidavit of *Smt. Ved Kumari* was not on file.

5. I have heard learned counsels for the parties and gone through the entire material placed on record.

6. A perusal of the material placed on record would show that during investigation, the Investigating Officer had issued a notice under Section 91 Cr.P.C. to Manager, DSIIDC on 11th August, 2009 seeking original affidavits dated 4th November, 2000, 19th December, 2000 and 29th March, 2005, as well as sent the aforesaid Will to FSL, alongwith admitted signature of *Late Sh. B.D. Sharma*. Vide letter dated 3rd September, 2009, the Manager, DSIIDC provided the attested copies of affidavits dated 4th November, 2000 and 29th March 2005, however, insofar as the subsequent rectified affidavit stated to be dated 31st March 2005 is concerned, it was reported that the same was not on file. Further, in the FSL report, the signatures of *Late Sh. B.D. Sharma* on the Will, vide which the aforesaid property stood transferred in the name of the petitioner's mother, were opined to be original.

7. It is noted that both the Courts below concluded that the signature on the aforesaid Will having been opined to be original by the FSL, no further investigation was required in the present case.

8. Further, the aforesaid Will is a registered document and on a specific Court query as to whether the petitioner has initiated any civil proceedings challenging the Will, the answer has been given in the negative.

9. Keeping in view the facts and circumstances of the case, I find no infirmity or illegality in the conclusion arrived at by the Courts below. Accordingly, the present petition is dismissed.

(MANOJ KUMAR OHRI)
JUDGE

DECEMBER 08, 2021

v

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