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

Reserved on: 21st July, 2023

Decided on: 28th July, 2023

+ **CRL.M.C. 2171/2019**

**LAL CHAND (DECEASED) THROUGH
LEGAL HEIR SITA RAMPETITIONER**

**Through: Mr. Nilanjan Bose,
Advocate, DHCLSC.**

V

STATE, NCT OF DELHI & ORSRESPONDENTS

**Through: Mr. Utkarsh, APP for the
State/R-1.
Mr. Praveen Kumar Singh,
Ms. Shradha Maheshwari,
Advocates for R-2 to 18.**

**CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN
JUDGMENT**

1. The present petition is filed under section 482 Cr.P.C. to impugn the judgment and order dated 05.12.2018 passed by the Court of Special Judge, P.C. Act (CBI-09), Central District, Tis Hazari Courts, Delhi in criminal revision no. 16/16 (58611/16) titled as **Lal Chand (Since Deceased) Through Legal Heirs V State & Ors.**



2. Lal Chand (since deceased/complainant) filed a criminal complaint bearing no. 104/1/11 under section 200 Cr.P.C. against the proposed accused on the allegations that the litigations were pending between Lal Chand (since deceased/complainant) and Maya Devi (accused no. 1) and Puran Chand in different courts. An eviction order was passed by the Court of Rent Controller, Tis Hazari Courts in favour of Maya Devi (accused no. 1) on 02.11.2010 and in execution of said eviction order, possession of the shop bearing no.11857/8, Sat Nagar, Karol Bagh, New Delhi, was taken over by the accused no. 1 on 03.06.2011 with the help of police forcibly.

2.1 Lal Chand (since deceased/complainant) further alleged that he had gone to attend the hearing of a case pending before the court of Civil Judge, Saket Courts on 03.06.2011 then in the meantime, 30-40 persons threw away articles, furniture, locker/safe and other goods from the shop forcibly and the said fact was informed to Lal Chand (since deceased/complainant) by his grandson Arun. Lal Chand (since deceased/complainant) along with his son Sita Ram reached at the shop at about 11:30 AM and a PCR call was made.



2.2 The stay order granted by this court was overlooked by the proposed accused. Lal Chand (since deceased/complainant) led the pre-summoning evidence. The complaint under section 200 was filed to initiate the legal proceedings against the proposed accused for the offences punishable under sections 380/506/34 IPC. The Court of Ms. Shilpi Jain, MM-01, Central District, Tis Hazari Courts, Delhi dismissed the complaint vide order dated 24.08.2016 by observing that there are contradictions/improvements in the testimonies of witnesses examined by Lal Chand (since deceased/complainant). The trial court has also observed that the cross-FIRs bearing no.0088/2011 and 0089/2011 were also registered, out of which, FIR bearing no.0089/2011 was got registered by Sita Ram who is the son of Lal Chand (since deceased/complainant).

3. Being aggrieved by the order dated 24.08.2016, a criminal revision petition bearing no.16/16 (58611/16) titled as **Lal Chand (Deceased) Through Legal Heirs V State & Ors.**, was filed. Lal Chand/complainant had died during the pendency of the revision petition and accordingly, his legal heirs as detailed in the memo of



parties were impleaded in place of Lal Chand (since deceased/complainant).

4. The Revisional Court observed that Lal Chand (since deceased/complainant) was a tenant in a shop for 50 years, which was owned by Maya Devi (accused no. 1) and regarding which, an eviction order was passed and the said eviction order was executed by the Bailiff on 03.06.2011. A revision petition was also filed before this court against the eviction order but no stay order was granted in favour of Lal Chand (since deceased/complainant). On 03.06.2011, a fight occurred between the concerned parties and accordingly, FIRs bearing no.0088/2011 and 0089/2011 were got registered. As mentioned hereinabove, FIR bearing no.0089/2011 was got registered at the instance of Sita Ram, son of Lal Chand (since deceased/complainant) and in the said FIR, factum of theft of any iron locker/safe and jewellery was not mentioned. The witnesses examined by the complainant in pre-summoning evidence i.e. CW-4, CW-1 and CW-2, who also deposed during the trial of FIR bearing no.0089/2011, also did not state anything about the theft of iron locker/safe or about any jewellery. The Revisional Court also



observed that the allegation leveled by Lal Chand (since deceased/complainant) and statements of the witnesses in pre-summoning evidence were not reliable. Accordingly, the revision petition was dismissed vide order dated 05.12.2018.

5. The present petition under section 482 Cr.P.C. is filed by Sita Ram, son/legal heir of Lal Chand (since deceased/complainant), who challenged the order dated 05.12.2018 passed by the Revisional Court.

6. The counsel for the petitioner argued that the trial court vide order dated 24.08.2016 has wrongly dismissed the complaint bearing no.104/1/11 under section 200 Cr.P.C. for initiating legal proceedings for the offences punishable under sections 380/506/34 IPC. The Revisional Court has also failed to appreciate the pre-summoning evidence led by Lal Chand (since deceased/complainant). He also raised the points as stated in the written arguments and placed reliance on the judgment of the Supreme Court titled as **Krishnan V Kishnaveni**, AIR 1997 SC 987, passed in Criminal Appeal bearing no. 58/1997 and **Shakuntala Devi and Ors. V Chamru Mahto and Anr.**, AIR 2009 SC 2075. He also placed reliance on the judgment



passed by the coordinate bench of this court titled as **Serious Fraud Investigation Office New Delhi V M/s Shonkh Technologies Limited New Delhi**, AIR OnLine 2023 Del 116 passed in Crl.M.C. 1937/2014.

7. The counsel for the respondents except the respondent no. 1, argued that Lal Chand (since deceased/complainant) was a tenant in respect of the shop in premises 11857/8, Sat Nagar, Karol Bagh, New Delhi for 50 years, which was owned by the respondent no. 2/Maya Devi and the said shop was ordered to be evicted by the order passed by the Additional Rent Controller. The eviction order was executed on 03.06.2011 and the allegations, as mentioned in the original complaint were false and nothing was removed as alleged in the original complaint. The present petition is liable to be dismissed.

8. The perusal of record reflects that Lal Chand (since deceased/complainant) filed a complaint bearing no. 104/1/11 under section 200 Cr.P.C. for initiation of legal proceedings under sections 380/506/34 IPC against the respondents no. 2 to 19 and led the pre-summoning evidence. Lal Chand (since deceased/complainant) in pre-summoning evidence, examined 04 witnesses including himself.



The trial court while considering the summoning of the proposed accused observed that there were material contradictions/improvements in the respective testimony of the witnesses examined in pre-summoning evidence and also noticed that on the same transaction, FIRs bearing no.0088/2011 and 0089/2011 were registered. It was also observed that FIR bearing no.0089/2011 was registered at the instance of Sita Ram, son of Lal Chand (since deceased/complainant).

9. The Revisional Court has upheld the observations made by the trial court in order dated 24.08.2016 and also observed that there is no whisper about the theft of iron locker/safe and jewellery in FIR bearing no.0089/2011. The Revisional Court has rightly observed that the allegations, as made in the complaint as well as in the pre-summoning evidence, are not reliable. The order dated 05.12.2018 passed by the Revisional Court was passed on the basis of proper appreciation of pre-summoning evidence led by Lal Chand (since deceased/complainant) and other materials on record.



10. There is no ground to interfere in the order passed by the courts below. Hence, the present petition along with pending applications, is dismissed.

DR. SUDHIR KUMAR JAIN
(JUDGE)

JULY 28, 2023

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