



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-61202-2024

Date of decision: 05.12.2024

Ashish Anan

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Lekh Raj Sharma, Advocate, for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. Prayer in the instant petition filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 is for quashing of the order dated 20.03.2019 (Annexure P-7) passed by the learned Judicial Magistrate, Ist Class, Gurugram in case titled as *State vs. Ashish Anan*, in case FIR No.315 dated 16.10.2013 under Sections 406 & 420 of the IPC, registered at Police Station Sector 40, Gurugram, District Gurugram.

2. Learned counsel for the petitioner has strenuously argued that the allegations made against the petitioner in the FIR annexed as Annexure P-1, are vague, baseless, and entirely devoid of substance. The FIR accuses the petitioner of defrauding the complainant, but learned counsel has submitted that the petitioner merely acted as a Mediator in the property transaction. The actual beneficiaries of the alleged fraud, as per the learned counsel, are Dinesh Chaudhry and Alka Chaudhary, who received the



entire sum of money provided by the complainant through their relative Kavita Tomar.

3. It has been further submitted that to bolster his defence, the petitioner deposed in his evidence before the trial Court that he had transferred the entire amount-comprising both cash and cheques – directly to Kavita Tomar, as per the instructions of Dinesh Chaudhary. In support of this claim, the petitioner relied upon two receipts executed by Kavita Tomar, which have been exhibited as Exhibit DW1/A and Exhibit DW1/B.

4. Learned counsel for the petitioner has further contended that the petitioner had made diligent efforts to compare the signatures of Kavita Tomar, on the receipts with her known signatures to prove his innocence. Initially, the petitioner sought permission from the learned trial Court for such a comparison, but the learned trial Court denied the permission. This led the petitioner to file a revision petition, which was allowed by the learned Appellate Court vide order dated 15th of February, 2018. Pursuant to this, the petitioner filed an application before the learned trial Court seeking the summoning of original records, including the memorandum of association, articles of association, and annual returns of M/s. Tushar Telecom India Limited, for the purpose of comparison of signatures.

5. It has been submitted that, however, on 6th of March, 2019, Naresh Kumar Tomar appeared before the learned trial Court and stated that the original records had already been submitted to the Registrar of Companies, making them unavailable for production. Learned counsel for the petitioner has argued that these receipts were critical to the defence of



the petitioner, and could conclusively establish that the petitioner had acted in good faith and had transferred the money through cash and cheque to Kavita Tomar. Learned counsel has further submitted that, despite the earnest efforts of the petitioner to secure this vital piece of evidence, the learned trial Court failed to appreciate its relevance and erred in dismissing the revision petition of the petitioner.

6. I have heard learned counsel for the parties and have perused the relevant material placed on record.

7. After a thorough examination of the submissions made by the learned counsel for the petitioner and the material on record, this Court finds that the conduct of the petitioner lacks diligence and rather reflects a strategy to unnecessarily delay the proceedings before the trial Court.

8. The impugned order reveals that, vide order dated 01st of March, 2017, the learned trial Court had granted the petitioner an opportunity to summon Kavita Tomar, for the purpose of comparing her signatures with those on the receipts Exhibit DW-1/A and Exhibit DW-1/B. Instead of availing this opportunity, the petitioner chose to file a revision petition against the said order. This conduct suggests a lack of bona fides on the part of the petitioner.

9. Moreover, despite repeated opportunities, the petitioner has failed to even file a list of witnesses he intends to examine. Such inaction further underscores the lackadaisical approach of the petitioner and reinforces the perception that the petitioner is engaging in dilatory tactics.

This Court cannot overlook the fact that the failure of the petitioner to act

upon the various opportunities provided by the trial Court has unnecessarily prolonged the trial and undermined the administration of justice.

10. While the petitioner claims that the receipts signed by Kavita Tomar constitute crucial evidence for his defence, the records indicate that he has not pursued the matter with due diligence. On the contrary, his actions appear to be inconsistent with his claims of earnestness. In such circumstances, this Court finds no justifiable basis for the grievance of the petitioner against the impugned order, dismissing his revision petition.

11. As a sequel to the above, the instant petition being devoid of merit is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 05, 2024

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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No