



\$~63

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

+ CRL.M.C. 2007/2024, CRL.M.A. 7740/2024

SANJAY CHAUDHARY & ANR.Petitioners

Through: Mr. Vikas Tomar, Adv. (VC).

versus

STATE (NCT) DELHI & ANR.Respondents

Through: Mr. Satish Kumar, APP for State and
SI Saurabh PS Neb Saraia.
Mr. Suhail Sehgal, Adv. for R-2 (VC)
with Mr. Prashant Drolia.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

24.07.2024

%

1. The present petition has been filed under section 482 Cr.P.C. challenging the order dated 29.01.2024, passed by Ld. ASJ-02, South District, Saket Courts, New Delhi in criminal revisions petition no. 224/2023 vide which the Ld. Session Judge allowed the revision petition and set aside the order dated 24.08.2022 passed by Ld. MM in FIR No. 302/2021 PS Neb Sarai, Delhi.
2. Ld. MM vide order dated 24.08.2022, directed the complainant to provide the copy of ownership document (Sale Deed) of the flat referred to by the complainant in her complaint to the IO and IO was directed to file a supplementary charge-sheet upon collecting the same.
3. Ld. Session Court while dealing the challenge against order dated 24.08.2022 in criminal revisions petition no. 224/2023 in the matter of



X vs. Sanjay Chaudhary inter alia held as under:

“Legally also, the impugned order suffers from infirmities as Ld. MM ought not to have issued any direction suggesting the manner in which the investigation was to be conducted by the investigating officer and consequently, investigating officer also could not have been directed to file the supplementary charge sheet, investigation being the domain of the investigating agency. Reading of Section 173(8) Cr.P.C is deemed necessary at this stage, hence, it is reproduced herein under:

“nothing in the section shall be deemed to preclude any further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section(2).”

The aforesaid provision distinctively uses the words ‘whereupon such investigation, the officer In-charge of the police has been obtained further evidence orally or documentary’ which signifies the investigation has to be furthered by the investigating officer who may make a report to the Magistrate and bring on record the facts newly discovered. The Magistrate is not clothed with any such power though, undisputedly, the Magistrate, to some extent, can monitor the investigation.

On the aforesaid issue, Ld. counsel for revisionist has made reference to Devendra Nath Singh Vs. State of Bihar and Ors, MANU/SC/1306/2022 and Satya Deo Sharma and Ors Vs. State of Rajasthan and Ors, date of decision 08.12.1997, Rajasthan High Court.



Apart from these two case laws, a reference can also be made to Central Bureau of Investigation through Ravi Gambhir Vs. Smt. Isha Devi and Ors, Delhi High Court, date of decision 10.01.2013 wherein also, the court had observed that the culmination of investigation into a charge sheet is the sole prerogative of the investigating officer and no court can direct that the charge sheet be filed in the matter. Though this judgment touches on the aspect of filing of the original charge sheet but the implication of this would also mean that the Magistrate cannot direct the filing of supplementary charge sheet as well though there is no bar for the Magistrate to direct further investigation, but the filing of charge sheet/supplementary charge sheet/closure report is the absolute domain of the investigating agency.

7. For the aforesaid reasons, the impugned order dated 24.08.2022 does not sustain and is accordingly set aside. The supplementary charge sheet filed, if any, containing the ownership documents of the flat of the revisionist is held to be of no consequence.”

4. This court is of the considered opinion that the Ld. Additional Session Judge has interpreted the law correctly, and Ld. MM had clearly fallen into the error by directing the police to file the supplementary charge-sheet. Ld. Additional Session Judge has rightly said that this is the domain of investigation. Furthermore, the revisional jurisdiction is very limited and can only be exercised when there is any illegality, infirmity in the order passed.
5. The revisional jurisdiction of the court is very limited. It has been held in various cases that the revisional jurisdiction can be exercised only when there is illegality or perversity of the Ld. Trial Court.
6. In **V.K. Verma v. CBI** CRL.REV.P. 830/2017 it has been inter alia held as under:



“66. The revisional jurisdiction is not meant to test the waters of what might happen in the trial. The Revisional Court has to consider the correctness, legality or propriety of any finding inter se an order and as to the regularity of the proceedings of the court below. While doing so, the Revisional Court does not dwell at length upon the facts and evidence of the case, rather it considers the material only to satisfy itself about the legality and propriety of the findings, sentence and order and refrains from substituting its own conclusion on an elaborate consideration of evidence. In the instant case, the Petitioner has failed to make out a case for exercise of the revisional jurisdiction since there is no patent error in the impugned order on the face of record.

67. Further, as per the settled position of law the jurisdiction under Section 482 has to be exercised sparingly, with circumspection and in rarest of the rare cases, only to prevent abuse of the process of any Court or to secure the ends of justice. In the instant case, there is no such abuse of process or that the ends of justice warrant the exercise of the said jurisdiction, therefore there is no cogent reason warranting the exercise of the jurisdiction.”

7. In **Sunil v. State** CRL.REV.P 514/2022 it was inter alia held as under

“7. The scope of revisional jurisdiction is very limited. The Courts can exercise its revisional jurisdiction only if there is patent illegality, perversity, jurisdictional error, or an error apparent on the face of the record. In revisional jurisdiction, the Courts cannot substitute its opinion with that of the Courts below. Where two views are possible and the trial court has taken one view which is a plausible view, merely because another view is possible, the High Court should not interfere, and would be in error in interfering with the findings of the trial court in its revisional jurisdiction. High Courts cannot reappraise evidence and come to a different conclusion. The revisional jurisdiction operates within narrow contours and can be exercised only in exceptional cases where the interest of public justice so



requires such an interference, to rectify a gross miscarriage of justice. In absence of any manifest error of law or procedural defects, the High Courts should refrain from interfering with the order of trial court in its revisional jurisdiction. The revisional court does not function as a court of appeal and the Court cannot reappreciate evidence. Revisional jurisdiction is normally exercised only in exceptional cases where there is a glaring defect in the procedure or there is a manifest error of law and consequently there has been a flagrant miscarriage of justice. The High Court cannot interfere with findings of fact of the learned trial Court which have been arrived at after due consideration and appreciation of evidence and material on record.”

8. I do not find any illegality, infirmity in the order passed by the Ld. Trial Court. Hence, the present petition stands dismissed.

DINESH KUMAR SHARMA, J

JULY 24, 2024/AR..