



2024:DHC:8813



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

% **Date of order: 5th November, 2024**

+ **CRL.M.C. 8649/2024 & C.R.L. M.A. 33075-76/2024**

EDWIN D SOUZA THROUGH GPAPetitioner

Through: Mr. Sanjay Jain, Mr. Girish Kumar,
Mr. Aditya Kumar and Mr. Kishlay
Kumar, Advocates

versus

RAN SINGH & ANR.Respondents

Through: Mr. Raghuinder Verma, APP for State
with SI Sandeep Kumar PS,
Ambedkar Nagar and Insp Dinesh
Malik, EOW

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) read with Article 227 of the Constitution of India has been filed on behalf of the petitioner seeking setting aside of the impugned order dated 5th August, 2024 passed by the learned ASJ-06, South, Saket Courts, New Delhi (hereinafter “ASJ”) in Cr. Rev. No. 124/2021.

2. The brief facts that led to the filing of the instant petition are that a case FIR No. 337/2008 was registered against the respondent No. 1/Sh. Ran

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Singh/revisionist before the learned ASJ for the commission of offences under Section 448/34 of the Indian Penal Code, 1860 (hereinafter “IPC”) on 29th July, 2008 at Police Station – Ambedkar Nagar, Delhi on the basis of a report dated 8th July, 2008 by Sh. Shoban Singh, ACP/GC which was further based on the complaint dated 30th January, 2008 made by the respondent No. 1/revisionist addressed to the Commissioner of Police, Delhi.

3. As per the aforesaid complaint of the respondent No. 1/revisionist, he was authorized by one Smt. Radhika Narain (only child/inheritor of late Sh. Kumar Narain and late Smt. Geeta Narain) to look after the property i.e., E 162/A, Sainik Farms, New Delhi (hereinafter “subject property”) vide a General Power of Attorney dated 29th December, 2005 (hereinafter “GPA”).

4. It was mentioned in the complaint that vide the aforesaid GPA, the respondent No. 1 was in possession of the said subject property and was constantly keeping watch on the house after locking it. It was further mentioned that he had started living in the house and started paying a rent of Rs. 10,000/- per month as per the rent agreement. It was alleged that the local police of Police Station - Ambedkar Nagar and PP Sainik Farms were extending threats to implicate him in a murder case, wherein the mother of Ms. Radhika Narain was murdered in the same house by some unknown criminals on 7th October, 2002 (FIR No. 514/2002). The said case was still untraced and local police was threatening him to dispossess him from the subject property.

5. It was prayed by the respondent No. 1/revisionist that he may kindly be saved from the unwarranted and unlawful threat of the local police. It was



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also mentioned that local police was not having locus-standi *qua* his possession and that some independent agency working under Commissioner of Police may kindly be entrusted with the inquiry in this matter. On receipt of this complaint, vigilance inquiry was conducted.

6. On the report thereof, Commissioner of Police directed registration of the case and transfer of the same to Economic Offences Wing (hereinafter “EOW”) after recording the remarks *qua* an anomaly regarding the name of the owner of the property.

7. After registration of the aforesaid FIR, investigation was conducted and charge-sheet was filed before learned CMM/Trial Court on 13th September, 2019 against the respondent No. 1/revisionist along-with Smt. Radhika @ Radhika Narin and one Sh. Inder Singh for commission of offences under Sections 448/453/420/468/471/120B of the IPC.

8. Vide order dated 19th October, 2020, learned CMM/Trial Court took cognizance of the commission of offences punishable under Sections 448/453/120B of the IPC, whereas, aspect regarding taking cognizance *qua* the remaining offences was left open for consideration till the time FSL report by way of supplementary charge-sheet was filed by the State.

9. The respondent No.1 herein/revisionist before the learned ASJ, along-with the other two accused persons, were summoned as accused vide order dated 19th October, 2020, to appear on 12th January, 2021.

10. The order dated 19th October, 2020 was challenged by the respondent No. 1 before the learned ASJ under Section 397 of the Code of Criminal Procedure, 1973 (hereinafter “CrPC”), thereby, seeking setting aside of the



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said order under the revisional jurisdiction in Cr. Rev. No. 124/2021.

11. In the said revision petition, the petitioner herein filed an application seeking his impleadment as a party to the said revision petition stating that he is a victim under Section 2(wa) of the CrPC (now Section 2(1)(y) of the BNSS).

12. The petitioner's application seeking his impleadment was dismissed vide order dated 15th April, 2024 by the learned ASJ, thereby, stating that the petitioner has a right to be a party only in a civil case. The petitioner challenged the said order in CRL.M.C. 8644/2024 which has been dismissed vide order of even date.

13. Thereafter, vide order dated 5th August, 2024, the learned ASJ allowed the aforesaid revision petition, thereby, setting aside the order dated 19th October, 2024 stating that the said order of cognizance was beyond the period of limitation as prescribed under Section 468 of the CrPC.

14. Being aggrieved by the impugned order dated 5th August, 2024, the petitioner has filed the instant petition seeking setting aside of the same.

15. Learned counsel appearing on behalf of the petitioner submitted that the impugned order is bad in law and is liable to be set aside as the same has been passed without taking into consideration the entire facts and circumstances.

16. It is submitted that the petitioner had filed an application for impleadment as a party with an objective to assist the State to put forth the correct propositions before the learned Trial Court for the adjudication of the aforesaid FIR which was dismissed and now the learned ASJ has



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erroneously allowed the aforesaid revision petition without hearing the contentions of the petitioner herein.

17. It is submitted that the learned Court below has failed to appreciate the relevant facts and documents which were part of the charge sheet as well as the investigation conducted by the police over a period of time of about eleven years. It is submitted that without considering the documents which were part of the record, the learned ASJ erroneously dismissed the petitioner's application seeking his impleadment as a victim.

18. It is submitted that the learned ASJ failed to consider that the accused, during the investigation, admittedly entered the property again in the year 2014 and filed a collusive suit and obtained a fraudulent decree, and the said fact is necessary for the proper adjudication of the proceedings.

19. It is submitted that Smt. Radhika Narayan has failed to produce any documents in support of her claim to be the biological child or the adopted child of the deceased Sh. Kumar Narayan and Smt. Geeta Narayan, except a school leaving certificate which mentions the aforesaid names as parents of Smt. Radhika Narayan. It is further submitted that there are a number of inconsistencies and contradictions found in her statement. It is an admitted fact that she had never visited or resided in the subject property.

20. It is submitted that the respondent No. 1 is a former Delhi Police Inspector who claims to be in possession of the property since the year 2005, however, evidence suggests that he entered the said property fraudulently in the year 2008 and is still continuing on the basis of a collusive suit.

21. It is submitted that the learned ASJ failed to appreciate the relevant



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facts and documents which were part of the chargesheet and the investigation conducted by the police for a period about eleven years wherein serious offences have been found to have been committed along with the offence of trespassing which is a continuing offence as the accused persons are still occupying the subject property and therefore, the order dated 19th October, 2020 could not have been set aside on the ground of limitation.

22. It is submitted that police investigation in the present case further revealed that school records presented by Smt. Radhika Narayan show inconsistencies in her claimed relationship with the deceased couple, including discrepancies in her parents' names and the existence of a sister namely Smt. Renuka, which Smt. Radhika did not disclose in her legal claims. The investigation found no evidence to support Smt. Radhika's claim of being the daughter of the deceased couple.

23. It is further submitted that multiple witnesses who knew the deceased couple stated they never saw or heard of Smt. Radhika as their daughter. Bank accounts and property documents of the deceased couple do not mention Smt. Radhika as a nominee or heir. Further, Smt. Radhika Narayan executed multiple agreements to sell the property including one with Sh. Ran Singh's wife for consideration significantly below market value. Therefore, the investigation concluded that the accused persons (Smt. Radhika Narayan, Sh. Ran Singh and Sh. Inder Singh) conspired to usurp the property based on forged papers and false claims. In the said investigation, there they found no evidence that the deceased couple had any children other



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than the petitioner herein.

24. It is submitted that the petitioner is the sole legal heir of the deceased Smt. Geeta Narayan and the same is evident from the chargesheet and record of the investigation. Thus, the impugned order is liable to be set aside as the petitioner is a necessary party and grave injury and prejudice would be caused in case he is not impleaded.

25. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be allowed and the reliefs be granted as prayed for.

26. *Per Contra*, the learned APP appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed being devoid of any merits. It is further submitted that there is no illegality in the impugned order and the same has been passed after taking into consideration the entire facts and circumstances of the case.

27. Heard the learned counsel appearing on behalf of the parties and perused the material placed on record.

28. At the outset, this Court has taken a strong objection to the instant petition where the petitioner has challenged the impugned order passed in the aforesaid revision petition to which he is not even a party.

29. Upon a specific query posed to the petitioner regarding his *locus standi* to file the instant petition, it has been submitted by the learned counsel for the petitioner that the petitioner is the sole legal heir of the subject property with regard to which the aforesaid FIR was filed and the investigation is being conducted. It has also been submitted that the



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petitioner had filed an application seeking his impleadment as a party to the abovementioned revision petition, however, the same was erroneously dismissed by the learned ASJ.

30. It is pertinent to mention here that vide order of the even date passed in CRL.M.C. 8644/2024, the order dated 15th April, 2024 by virtue of which his impleadment application was dismissed has been upheld.

31. Here, it is pertinent to mention that a catena of judgments have been passed by the Hon'ble Supreme Court as well as by various High Courts wherein it has been held that a stranger to a party does not have any *locus* to interfere or intervene with the criminal proceedings which are instituted by the State against an accused.

32. In order to assail an order before a superior Court, the said party must have the *locus*, i.e., he or she must be a party to the said proceeding and merely stating that he or she is affected by the decision passed in the said order is not a sufficient ground to challenge the same. Similar view has been taken by the Division Bench of the Bombay High Court in **Interim Application (Stamp) No. 1523/2023 in Criminal Writ Petition No. 300/2023 in Venugopal Nandlal Dhoot & CBI & Ors.** Relevant paragraphs of the same are as under:

“..11. The law on the aspect of locus standi in the criminal proceedings is no more res integra. There are catena of judgments to the effect that a stranger cannot be permitted to intervene or interfere with the criminal proceedings which are instituted by the State against an accused. C.B.I is an independent and statutory Authority investigating the instant crime. We cannot permit a stranger to indirectly become an



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instrument to attain or obtain any beneficial achievement which one could not get through normal legal process. Once the investigation is complete and the chargesheet is filed in the competent Court then that Court is expected to apply its judicial mind and permit the proceedings to progress till it results in finality. Essentially, criminal offences have been treated as offences against the State. It is the State alone who is competent to investigate and prosecute the offender since the crime is committed against the Society at large. The Code of Criminal Procedure has set out a mechanism for investigation of such crimes and for the said purpose, the hierarchy of criminal courts is created which are competent to exercise its jurisdiction in the manner conferred on it under Chapter II of the Code of Criminal Procedure. The Code also set out the power of these Courts by which the offences are triable. The powers of the investigating machinery, including the power to arrest, compel appearance is also set out in the Code of Criminal Procedure itself. On conclusion of the trial and on pronouncement of the judgment by the Court of competent jurisdiction, there is a provision of appeals and no appeal lie from any judgment or order of a criminal court except as provided by the Code or by any other law for the time being in force. If at all, it is only a victim who has a right to participate in a proceeding right from the stage of bail till it attains finality. A proviso has also been inserted in section 378, thereby recognizing a right of a victim to prefer an Appeal against any order passed by the Court acquitting the accused or convicting him for a lesser sentence. The said amendment was inserted by Act No. V of 2009 with effect from 31st December, 2009 along with the inclusion of the term 'victim' by virtue of Section 2 (wa). Access to mechanism of justice and redress through prescribed procedure includes Right to Appeal. The Appeal which is a statutory remedy is permitted to be exhausted by the State and in case of an acquittal, the manner in which the Appeal is to be filed is determined by Section 378



of the Code. Apart from this, under section 397 of the Code, the High Court or Sessions Court is competent to exercise its power of revision for the purpose of satisfying as to correctness, legality or propriety of any finding, sentence or an order of an inferior Court...”

33. The aforesaid has already been observed by the Hon’ble Supreme Court in the judgment of ***P. Dharamaraj v. Shanmugam, (2022) 15 SCC 136***, relevant extracts of which are as under:

27. Paras 11 to 16 of the said decision on which heavy reliance is placed read as follows : (Sanjay Tiwari case [Sanjay Tiwari v. State of U.P., (2021) 15 SCC 660] , SCC pp. 664-66)

“11. It is well settled that criminal trial where offences involved are under the Prevention of Corruption Act have to be conducted and concluded at the earliest since the offences under the Prevention of Corruption Act are offences which affect not only the accused but the entire society and administration. It is also well settled that the High Court in appropriate cases can very well under Section 482CrPC or in any other proceeding can always direct the trial court to expedite the criminal trial and issue such order as may be necessary. But the present is a case where proceeding initiated by Respondent 2 does not appear to be a bona fide proceeding. Respondent 2 is in no way connected with initiation of criminal proceeding against the appellant. Respondent 2 in his application under Section 482CrPC in para 6 has described him as social activist and an advocate.

12. An application by a person who is in no way connected with the criminal proceeding or criminal trial under Section 482CrPC cannot ordinarily be entertained by the High Court. A criminal trial of an accused is conducted in accordance with procedure as prescribed by the Criminal Procedure Code. It is the obligation of the State and the



prosecution to ensure that all criminal trials are conducted expeditiously so that justice can be delivered to the accused if found guilty. The present is not a case where prosecution or even the employer of the accused have filed an application either before the trial court or in any other court seeking direction as prayed by Respondent 2 in his application under Section 482CrPC.

13. With regard to locus of a third party to challenge the criminal proceedings or to seek relief in respect of criminal proceedings of the accused had been dealt with by this Court in Janata Dal v. H.S. Chowdhary [Janata Dal v. H.S. Chowdhary, (1991) 3 SCC 756 : 1991 SCC (Cri) 933] . In the above case, CBI had registered FIR under IPC as well as under the Prevention of Corruption Act, 1947 against 14 accused. On an application filed by CBI the learned trial Judge allowing the application to the extent that a request to conduct necessary investigation and to collect necessary evidence which can be collected in Switzerland passed order on 5-2-1990 which is to the following effect:

'In the result, the application of CBI is allowed to the extent that a request to conduct the necessary investigation and to collect necessary evidence which can be collected in Switzerland and to the extent directed in this order shall be made to the competent judicial authorities of the Confederation of Switzerland through filing of the requisite/proper undertaking required by the Swiss law and assurance for reciprocity.'

14. A criminal miscellaneous application was filed by Shri H.S. Chowdhary seeking various prayers before the Special Judge which petition was dismissed by the Special Judge. A criminal revision under Sections 397 and 482CrPC was filed by H.S. Chowdhary in the High Court to quash the order of the Special Judge, which revision was also dismissed [Harinder Singh Chaudhary v. Union of India, 1990 SCC OnLine Del 395] by the High Court. The appeals



were filed in this Court by different parties challenging the said order including H.S. Chowdhary. This Court while dismissing the appeals filed by H.S. Chowdhary and others made the following observations : (Janata Dal case [Janata Dal v. H.S. Chowdhary, (1991) 3 SCC 756 : 1991 SCC (Cri) 933] , SCC pp. 768-69, paras 26-28)

'26. Even if there are million questions of law to be deeply gone into and examined in the criminal case of this nature registered against specified accused persons, it is for them and them alone to raise all such questions and challenge the proceedings initiated against them at the appropriate time before the proper forum and not for third parties under the garb of public interest litigants.

27. We, in the above background of the case, after bestowing our anxious and painstaking consideration and careful thought to all aspects of the case and deeply examining the rival contentions of the parties both collectively and individually give our conclusions as follows:

1. Mr H.S. Chowdhary has no locus standi (a) to file the petition under Article 51-A as a public interest litigant praying that no letter rogatory/request be issued at the request of the CBI and he be permitted to join the inquiry before the Special Court which on 5-2-1990 directed issuance of letter rogatory/request to the Competent Judicial Authorities of the Confederation of Switzerland; (b) to invoke the revisional jurisdiction of the High Court under Section 397 read with Section 401CrPC challenging the correctness, legality or propriety of the order dated 18-8-1990 of the Special Judge; and (c) to invoke the extraordinary jurisdiction of the High Court under Section 482CrPC for quashing the first information report dated 22-1-



1990 and all other proceedings arising therefrom on the plea of preventing the abuse of the process of the Court.

28. In the result, we agree with the first part of the Order dated 19-12-1990 [Harinder Singh Chaudhary v. Union of India, 1990 SCC OnLine Del 395] of Mr Justice M.K Chawla holding that Mr H.S. Chowdhary and other intervening parties have no locus standi. We, however, set aside the second part of the impugned order whereby he has taken suo motu cognizance and issued show-cause notice to the State and CBI and accordingly the show-cause notice issued by him is quashed.'

15. This Court in the above case laid down that it is for the parties in the criminal case to raise all the questions and challenge the proceedings initiated against them at appropriate time before the proper forum and not for third parties under the garb of public interest litigants.

16. We are fully satisfied that Respondent 2 has no locus in the present case to file application under Section 482CrPC asking the Court to expedite the hearing in criminal trial. We have already observed that all criminal trials where offences involved under the Prevention of Corruption Act have to be concluded at an early date and normally no exception can be taken to the order of the High Court directing the trial court to expedite the criminal trial but in the present case the fact is that proceedings have been initiated by Respondent 2 who was not concerned with the proceedings in any manner and Respondent 2 has no locus to file application which was not clearly maintainable, we are of the view that the impugned judgment of the High Court dated 9-9-2020 [Tripuresh Tripathi v. State of U.P., 2020 SCC OnLine All 1565] cannot be sustained."

(emphasis in original)



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34. In view of the aforesaid judicial *dicta*, it is settled that a third party, i.e., a stranger to a party has no *locus* to challenge an order passed in a criminal proceeding unless he or she is a party to the said proceeding.

35. Therefore, keeping in view the discussions on law and facts in the preceding paragraphs as well as the order of the even date passed in CRL.M.C. 8644/2024, this Court does not find any reasons to adjudicate the present petition on merits, and thus, the same is liable to be dismissed at the threshold.

36. In view of the above facts and circumstances the instant petition stands dismissed on the ground of non-maintainability of the same.

37. Pending applications, if any, also stands dismissed.

38. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

NOVEMBER 5, 2024

Rt/ryp/mk

Click here to check corrigendum, if any