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

+ **CRL.M.C. 2523/2025**

SH RAJ KUMAR SHARMA
@ RAJU & ANR.

.....Petitioners

Through: Mr. Sunil Choudhary,
Advocate (through VC).

versus

SMT SAILJA SINGH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

16.04.2025

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CRL.M.A. 11299/2025 (Exemption)

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

CRL.M.C. 2523/2025 & CRL.M.A. 11298/2025 (Stay)

3. The present petition is filed challenging the order dated 06.02.2025, passed by the learned Additional Sessions Judge-05, ('ASJ') Rohini Courts, Delhi, in Crl. Rev. 295/2024 ('**impugned order**').

4. By the impugned order, the learned ASJ dismissed the revision petition challenging the order dated 07.08.2024 passed by learned JMFC-02, North West, Rohini Courts, Delhi ('**Trial Court**') summoning the petitioner in complaint case bearing CT Case 12156/2018 for offence under Section 420 of the Indian Penal Code, 1860 ('**IPC**').

5. The background of the case, in brief, is that the respondent herein, who is the complainant, alleged that she was induced by the petitioners to part with her Hyundai Xcent car (Regn. No. DL

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3 CC 6923), valued at ₹5.5 lakhs, in lieu of a promise to transfer a plot of land in her name. It is alleged that the petitioners offered two options of plots, purportedly in their ownership and possession, and upon selection by the complainant and her husband, assured that transfer would be effected by November or December 2016. However, no such transfer took place.

6. The complainant contended that she discovered that one of the plots (in Jharoda Burari) did not belong to the petitioners, and upon repeated follow-ups, she was threatened. Eventually, she filed a complaint with the police, and thereafter, a criminal complaint under Section 200 of the Code of Criminal Procedure, 1973 ('CrPC') along with an application under Section 156(3) of the CrPC. The said application was dismissed, but upon leading pre-summoning evidence, the learned Trial Court issued summons to the petitioners for the offence under Section 420 of the IPC.

7. The revision petition filed against the summoning order was dismissed by the Learned ASJ on 06.02.2025, affirming that the material on record disclosed a *prima facie* case under Section 420 of the IPC.

8. It is the primary contention of the learned counsel for the petitioners that the summoning order suffers from non-application of mind, as it does not disclose how the ingredients of Section 420 of the IPC are made out.

9. He submits that the complainant's husband entered into the transaction without proper authority, and the Memorandum of Understanding (MOU) dated 04.06.2016 was not executed with the complainant herself, but only with her husband, thereby defeating the complainant's claim.

10. He submits that there is no evidence that the petitioners misrepresented ownership of the said plots or that they committed



any dishonest act at the inception of the transaction, which is a *sine qua non* for constituting an offence under Section 420 of the IPC.

11. He submits that the learned ASJ exceeded its revisional jurisdiction by evaluating the defence arguments at the nascent stage of proceedings, amounting to a mini-trial. Such an approach, it is argued, is contrary to settled legal principles, as only a prima facie case needs to be established for the issuance of summons.

12. At the outset, it is relevant to note that while it is settled law that a second revision cannot be filed in terms of the bar under Section 397 of the CrPC, the inherent power of this Court under Section 482 of the CrPC has a wide ambit and can be exercised in the interest of justice. The Hon'ble Apex Court, in the case of ***Krishnan v. Krishnaveni : (1997) 4 SCC 241***, had observed as under:

“8. The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order.”

(emphasis supplied)

13. It is settled law that at the stage of issuance of process, the learned Trial Court is supposed to apply its mind to the facts at hand as well as the relevant law. After examination of the



allegations and material on record, the learned Trial Court is required to record its satisfaction that sufficient grounds exist for proceeding against the accused. The Hon'ble Apex Court, in the case of ***Pepsi Foods Ltd. v. Special Judicial Magistrate : (1998) 5 SCC 749***, had observed as under:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

14. This Court is conscious of the limited scope of interference under Section 528 of the BNSS (akin to Section 482 of the CrPC) in summoning orders passed after consideration of complaint and pre-summoning evidence. At the summoning stage, the Magistrate is only required to assess whether there is *prima facie* sufficient ground to proceed, not to meticulously evaluate the admissibility of evidence or probable defences.

15. In the present case, the learned Trial Court has passed a detailed order, recording its satisfaction that *prima facie* offence under Section 420 of the IPC is made out. The reliance placed on the complainant's affidavit, the MOU, and the testimony of witnesses establishes that there was an inducement by the



petitioners to transfer the car under a promise of providing a plot, which was later found to be falsely represented.

16. The petitioners' assertion that the complainant's husband had no authority is a defence which cannot be adjudicated upon at the summoning stage and is a matter of trial. Moreover, the complainant has produced an authority letter dated 27.04.2016, which supports the stand that her husband was acting with her consent.

17. As noted by the Revisional Court in the impugned order, there is no dispute that the plot in Jharoda, Burari did not belong to the petitioners, a fact corroborated by the ATR. This lends support to the complainant's assertion that false representation was made regarding ownership.

18. In ***Rajesh Bajaj v. State NCT of Delhi : (1999) 3 SCC 259***, the Hon'ble Supreme Court held that it is not necessary that a complainant should verbatim reproduce the legal ingredients of the offence. What is required is that the allegations, if taken at face value, should disclose the offence. That standard is met in the present case. The relevant paragraph of the judgment is reproduced hereunder :

“9. It is not necessary that a complainant should verbatim reproduce in the body of his complaint all the ingredients of the offence he is alleging. Nor is it necessary that the complainant should state in so many words that the intention of the accused was dishonest or fraudulent. Splitting up of the definition into different components of the offence to make a meticulous scrutiny, whether all the ingredients have been precisely spelled out in the complaint, is not the need at this stage. If factual foundation for the offence has been laid in the complaint the court should not hasten to quash criminal proceedings during investigation stage merely on the premise that one or two ingredients have not been stated with details. For quashing an FIR (a step which is permitted only in extremely rare cases) the information in the complaint must be so bereft of even the basic facts which are absolutely necessary for making out the offence.....”



19. The Action Taken Report (ATR) submitted by the police during the inquiry under Section 156(3) of the CrPC forms a significant basis for the issuance of process in the present case. The ATR, as noted in the impugned summoning order, records that the police undertook verification of the ownership details of the properties which were allegedly offered by the petitioners to the complainant in exchange for her vehicle. The ATR specifically found that one of the plots, namely the property situated at Jharoda, Burari, did not belong to the petitioners, contrary to their representation to the complainant at the time of the transaction. Thus, the ATR provided the learned Trial Court with an objective, preliminary assessment of the factual assertions made by the complainant, particularly the critical aspect of misrepresentation of ownership.

20. No perversity, illegality, or miscarriage of justice has been shown to warrant interference with the orders of the Trial Court and the Revisional Court. The present petition appears to be a veiled attempt to stall the trial and delay the adjudication in the present matter.

AMIT MAHAJAN, J

APRIL 16, 2025