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

+ **CRL.M.C. 2788/2019 & CRL.M.A. 11237/2019**

VIJAY GUPTA

.....Petitioner

Through: Mr. Satish Kumar, Advocate

versus

STATE & ORS

.....Respondents

Through: Mr. Amit Ahlawat, APP for State
Ms. Gareema Agarwal, Advocate for
R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

30.04.2025

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1. The present petition under Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of criminal complaint bearing CC No. 617328/2016 registered at P.S. Chittranjan Park, New Delhi. The said criminal complaint was filed by Respondent No. 2 against the Petitioner and Respondents No. 3 & 4. Furthermore, the Petitioner also seeks setting aside of order dated 06th October, 2015, as passed by the Metropolitan Magistrate in the aforementioned complaint, whereby upon finding a *prima facie* case against the Petitioner and Respondent No. 3 under Sections 471 and 474 of Indian Penal Code, 1860², they have been summoned by the Trial Court.

2. The case of the Respondent No. 2 (Complainant) is that Respondent No. 3 (now deceased) forged the Will of Late Sh. S.L. Kapur dated 23rd June, 1992 as well as the Will of Smt. Lajwanti Kapur dated 19th May, 1992.

¹ "Cr.P.C."

² "IPC"

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It was further contended that the Respondent No. 3 has illegally grabbed the property bearing House No. S-395, Greater Kailash-II, New Delhi and commercial building No.6/92 western Extension Area, Karol Bagh, New Delhi, and misappropriated the rental income with respect to the commercial property on the basis of alleged forged Will.

3. In terms of the Petitioner, the Complainant alleged that he acted in conspiracy with Respondent No. 3 since he affixed his signature of both of the alleged forged Wills as a witness. Moreover, it is alleged that Respondent No. 4 (daughter of late Sh. S.L. Kapur) executed a gift deed regarding the second floor of the House No. 395, GK-II, New Delhi, in favour of Respondent No. 3, in lieu of payment of ₹30 Lakhs, which was obtained by misappropriating the rental income of the aforementioned commercial property, which was actually joint family income.

4. In the subject compliant proceedings, on the basis of the deposition of the Complainant, who examined himself as CW-1, and other witnesses, the Trial Court, after finding a *prima facie* case, issued summons against the Petitioner as well as Respondent No. 3 – Anil Kumar Kapur *vide* the impugned order dated 6th October, 2015.

5. Aggrieved, the Petitioner invoked the jurisdiction of this Court under Section 482 of the Cr.P.C., by filing the instant petition in May, 2019. Since then, the matter has been pending before the Trial Court and today, the Court is informed by the counsels that the pre-charge evidence is being recorded in the matter.

6. At the outset, without going into the merits of the case, Ms. Gareema Agarwal, counsel for the Respondent No. 2 (Complainant) points out that the instant petition should not be entertained by this Court on the ground of

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delay and latches. She urges that the Petitioner could avail the alternate efficacious remedy available to him for assailing the impugned summoning order by filing a revision petition before the concerned Court under Section 397 Cr.P.C. She alleges that since the said remedy was not exercised by the Petitioner within time, therefore, in order to overcome the bar of limitation, the instant petition invoking the inherent jurisdiction of this Court under Section 482 of Cr.P.C. has been filed.

7. In such circumstances, she argues that the powers of this Court under Section 482 Cr.P.C which are discretionary in nature, should not be exercised when there is a unexplained delay of about 4 years, on the part of the Petitioner, to assail the impugned summoning order. To support this contention, she places reliance on the judgments of the Supreme Court in *Sanyam Bhushan v. State (NCT of Delhi)*³, *Vipin Kr. Gupta v. Sarvesh Mahajan*⁴ and *Rajesh Chetwal v. State*⁵.

8. On the issue of maintainability, counsel for the Petitioner submits that there is no period of limitation provided under Section 482 Cr.P.C., as it is a provision which is invoked in order to prevent abuse of process of law. He points out that a suit for partition was instituted by Mr. Sunil Kumar Kapur, the uncle of the Complainant, [CS(OS) No. 1411/1997] wherein the Wills in question were contested. He submits that on the basis of a compromise between the parties to the suit, the parties filed an application under Order 23 Rule 3 read with Section 151 of the CPC and a compromise decree was passed in terms of the said settlement. He argues that as per the terms and conditions of the settlement application, the parties gave up the contest of

³ 2024 SCC OnLine Del 4545

⁴ 2019 SCC OnLine Del 12349

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the Wills in question and divided the legal rights in certain properties amicably. He further submits that even though this compromise was challenged by the father and brother of the Complainant by filing applications under Section 151 of the CPC alleging that the compromise decree was obtained by fraud, the Court dismissed both the said challenges. Therefore, he urges that after acknowledging the legal sanctity of the Will in the settlement decree, the contesting party's attempts to wriggle out of the settlement have been consistently rejected by the Courts. Thus, he submits that in light of the fact that the question of the authenticity of the Wills in question has itself been acknowledged in the proceedings in the partition suit, criminal action cannot be brought against the Petitioner and Respondent No. 3 on the basis of an allegation that the subject Wills are forged.

9. The Court has considered the aforementioned contentions of the parties. It is noted that the proceedings in the Criminal Complaint which forms the basis of the summoning order, are still at a nascent stage where the pre-charge evidence is currently being recorded.

10. There cannot be any doubt that there has been a gross delay on the part of the Petitioner in preferring the present petition. The impugned summoning order was passed on 6th October, 2015, and the instant petition was filed nearly four years thereafter. On this issue, the Court finds merit in the contentions of counsel for the Respondent, that the Petitioner cannot be permitted to invoke the extraordinary powers of this Court under Section 482 of Cr.P.C., when there has been a gross delay on their part in approaching the Court. It is well settled that even though there is no limitation prescribed for preferring a petition under Section 482, the same



should be filed within “reasonable time”⁶. In the present case, the delay of four years in approaching this Court cannot be deemed reasonable, especially when there is no plausible explanation or sufficient cause mentioned in the petition, which would justify the inordinate delay. Thus, the Court is not inclined to invoke its powers under Section 482 of the Cr.P.C to condone the inordinate delay in the instant matter.

11. That said, it must also be noted that the Petitioner’s contentions urged in the present case, can be easily urged before the Trial Court, at the stage of charge. As of now, the pre-charge evidence is being recorded in the criminal compliant case, wherein the Petitioner shall have ample opportunities to cross-examine the Respondent witnesses and present their contentions before the Trial Court, while addressing arguments on point of charge. Thus, without delving into the merits of the case, this Court declines to entertain the present petition.

12. It is, however, clarified that the Petitioner shall be at liberty to urge all the grounds urged in the present petition at the stage of charge which shall be considered by the Trial Court, on its own merits, in accordance with law. In the event, the decision of the Trial Court is against the Petitioner, they shall be at liberty to take recourse to appropriate remedies in accordance with law.

13. In view of the above, the present petition is dismissed along with pending application.

SANJEEV NARULA, J

APRIL 30, 2025/ab

⁶ *Londhe Prakash Bhagwan v. Dattatraya Eknath Mane & Ors.* (2013) 10 SCC 627

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