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

+ CRL.M.C. 5951/2023 & CRL.M.A. 22343/2023

GURDIAL SINGHPetitioner

Through: Mr. S.N. Khanna, Advocate.

versus

STATE OF N.C.T OF DELHIRespondent

Through: Ms. Priyanka Dalal, APP for the
State.

SI Mahabir Prasad, P.S. EOW.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

16.05.2025

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1. This hearing has been done through hybrid mode.
2. The present second petition under Section 482 of the Code of Criminal Procedure, 1973, (for short, 'CrPC'), has been filed seeking following prayers: -

“i. allow this criminal petition and pass the order quashing and setting aside the impugned chargesheet dated 9th of March 2009 filed against the petitioner with reference to the 1st information report number 455 dated 11th of September 2008, which FIR was lodged by the petitioner;

ii. Quash the criminal proceedings arising from the impugned chargesheet dated 9th of March 2009 with reference to sections 420/467/468/471/182/120B Indian penal code, with reference to the FIR No. 455 dated 11 th of September 2008, police station Meharauli, district South Delhi, as per the chargesheet filed against the petitioner and as pending in the court of Sh. Puneet Pahwa ACMM, Saket courts, New Delhi, the next date of hearing being 17.8.2023.

iii. Grant any other further relief which this court may deem fit and proper in the interest of Justice in the facts and circumstances of the case.”

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3. The proceedings in the present case arises out of FIR No.455/2008, under Sections 420/467/468/471/182/120B of the Indian Penal Code, 1860, (for short, 'IPC'), registered at Police Station Mehrauli, which was registered at the complaint of the present petitioner. It was alleged that the complainant is the owner of property measuring 34 Bighas situated at Ali Walah Bagh, Mehrauli, New Delhi, which was purchased by him in 1998 and he had appointed a caretaker, Chhote Lal, to look after the said property as he hails from Mohali, Punjab, and visits his property every few month. It was further alleged that to the utter surprise of the complainant, when he visited his land and told Chhote Lal, his plan to develop the aforesaid land, the latter told him that he will not be vacating the one corner hutment which was temporarily given to Chhote Lal by the complainant to look after his land. The caretaker, Chhote Lal, further told the complainant that he cannot be dislodged by anybody as he knows some influential property dealers (Land Mafia) and police personnel of the area, who were also part of the said land mafia. Thereafter, when the complainant visited his property at the aforesaid address, he was denied entry by Chhote Lal, however, the complainant tried to avoid confrontation. But the caretaker said he will vacate the hutment only if he is paid a few lakhs of rupees and the complainant then, paid him Rs.5.50 Lakhs for the said purpose. It was further alleged that the complainant afterwards denied to pay such huge amount of money for one small hutment situated at one corner of the land as the caretaker including his wife and son while acting in connivance of land mafias, Mahendra Choudhary, and policeman, Azad Kumar, was demanding money from him. The complainant was also threatened of being implicated in various criminal cases. On 11.09.20008,

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when the complainant went to his property, he came to know that two security guards were posted by Group 2 Securitan Inc on his land, who obstructed his entry to the said property, and the same were not posted by him. The complainant was given some documents written by B.S. Tolani when he visited the office of Group 2 Securitan Inc. On enquiry regarding the telephone numbers, fax, and address written on the said document, the same were found forged. Based on these facts, FIR was registered and investigation was undertaken.

4. After investigation, chargesheet and 4 supplementary chargsheets were filed against the accused persons including the present petitioner, who is originally the complainant, on the ground that documents furnished by him during the investigation and at the time of registration of FIR were found to be forged. Learned Trial Court *vide* order dated 09.10.2020 proceeded to frame charges against the present petitioner for the offences punishable under Section 120B(1) read with Section 467 of the IPC and Section 467 of the IPC and formal charges in pursuance of the same was framed on 17.11.2021. The present petitioner challenged the aforesaid order framing of charge by way of Criminal Revision Petition No. 102/2022 which was dismissed by learned ASJ *vide* orders dated 17.04.2023. It is pertinent to note that the said orders have not been challenged by the present petitioner at any forum.

5. Learned counsel appearing on behalf of the petitioner submits that no complaint under Section 195 of the Cr.P.C. was filed with regard to offence punishable under Section 182 of the IPC. It is also submitted that the petitioner, who himself was the complainant in the FIR could not be made an accused and that the Police should have registered a separate FIR with respect to the offences alleged to have been committed by him. It is further submitted

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that the order passed by learned Chief Metropolitan Magistrate at the time of order framing charge, further reflected that the investigation was not conducted properly. It is further submitted that the petitioner had taken the Investigating Officer to the house of accused Virender Singh where Pritam Kaur and Surender Singh were also present.

6. In the present case during investigation, an agreement to sell dated 21.01.1998 alleged to have been executed between B.S Tolani and Virender Singh and Pritam Kaur was found to be forged. One GPA executed by Birender Kumar in favour of Varinder Singh and the petitioner was also found to be forged. It is the case of the prosecution that the present petitioner had filed a complaint claiming ownership of the said property which was found to be forged on verification. It is also the case of the prosecution that the signature of B.S. Tolani were found to be forged. It is noted that the said document was signed by the petitioner as a witness. Apart from the fact that the signatures of Mr. Tolani are forged, even the beneficiary to the said agreement Virender Singh and Pritam Kaur were not found at the address mentioned in the document. The other witness to the document namely Surender Singh was also not found.

7. It is thus the case of the prosecution that the present petitioner in collusion with the other accused persons had hatched a conspiracy to cheat B.S. Tolani from ownership of the land in question.

8. So far as the issue of Section 195 of the Cr.P.C. is concerned, it is sufficient to note that no cognizance for offence punishable under Section 182 of the IPC has been taken by the learned Trial Court. The contention that the petitioner being a complainant in the FIR cannot be made an accused in the present case is also untenable inasmuch as during course of investigation, if a

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document has been provided and same is found to be forged, then the Investigating Officer can take *suo motu* note and investigate the same.

9. As noted hereinbefore that by way of present petition, the petitioner has not challenged the orders dated 09.10.2020 passed by the learned Trial Court as well as judgment dated 17.04.2023 passed by the learned ASJ dismissing the revision petition against the order framing charge. It is a well settled principle of law that a second revision petition is not maintainable in view of Section 397(3) of the Cr.P.C. and the scope of challenge of two concurrent findings under Section 482 of the Cr.P.C., is limited. The petitioner had to demonstrate that the concurrent findings of the courts below are perverse and are beyond the facts of the case. For this Court to exercise its inherent powers under Section 482 Cr.P.C. and in interfering with the concurrent findings of the two Courts below, it has to be demonstrated that the illegality in the said orders go to the very root of the matter and therefore are not sustainable in law. This Court has gone through the orders passed by the learned Chief Metropolitan Magistrate as well as learned ASJ. Both the Courts have examined the material on record. It has been noted that the FSL report reflects that the agreement to sell dated 21.01.1998, whose execution was witnessed by the present petitioner does not bear the original signatures of BS Tolani. The contentions raised by the present petitioner will be adjudicated during the course of the trial by the learned Trial Court.

10. In view of the aforesaid facts and circumstances of the present case, this Court finds no grounds to quash the chargesheet dated 09.03.2009 filed in FIR No. 455/2008, under Sections 420/467/468/471/182/120B of the IPC, registered at PS Mehrauli.

11. The present petition is dismissed and disposed of accordingly along

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with all pending applications, if any.

12. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

MAY 16, 2025/bsr

Click here to check corrigendum, if any

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