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

+ **CRL.M.C. 2617/2014 & CRL.M.A. 4036/2025**

RAJEEV GUPTA

.....Petitioner

Through: Mr. Aseem Mehrotra and Ms. D. Mehrotra, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for the State.
SI Chandan, P.S.: Paschim Vihar East.
Ms. Vaneeta Khanna in-person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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10.02.2025

CRL.M.A. 4037/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.M.A. 4035/2025

By way of the present application filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the applicant/petitioner seeks advancement of the date of hearing in the present matter, which is otherwise posted on 03.03.2025.

2. It is noticed that though the present application has been filed under the BNSS, since it was filed in proceedings initiated under Code of Criminal Procedure, 1973 ('Cr.P.C.') which proceedings were pending before the coming into force of the BNSS, the present application is treated as one under section 482 of the Cr.P.C.



3. Mr. Aseem Mehrotra, learned counsel appearing for the petitioner submits, that the next date of hearing before the learned trial court is 13.02.2025; that prosecution evidence is being recorded before the learned trial court; and if the present petition is not taken-up expeditiously, the matter may become infructuous.
4. For the reasons stated in the application, which is duly supported by affidavit, the application is allowed.
5. The petition is taken-up for hearing today.
6. The application is disposed-of.

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7. By way of the present petition filed under section 482 of the Cr.P.C., the petitioner impugns order dated 08.11.2013 passed by the learned Sessions Court in Criminal Rev. No.419/2/13 and 420/2/13, thereby upholding two orders dated 29.03.2011 passed by the learned Magistrate.
8. On 29.03.2011 the learned Magistrate has passed two separate orders - one, being an order on charge, and the other, being an order framing charge *inter-alia* against the petitioner under sections 420/120-B/468/471/448 of the Indian Penal Code, 1860 ('IPC').
9. Notice on this petition was issued on 27.05.2014.
10. Status report dated 01.05.2023 has been filed by the State. Respondent No.2/complainant has also filed its reply to the petition. Written submissions have also been filed by the petitioner and by respondent No.2.
11. Mr. Mehrotra submits, that a perusal of the order on charge would show that the order bears no reference to any material that may have



come on record by way of the chargesheet after completion of investigation; and is a cryptic, non-reasoned order, by which the learned Magistrate has proceeded to frame charges *inter-alia* against the petitioner under sections 420/120-B/468/471/448 of the IPC.

12. Counsel very fairly submits, that he would restrict the present challenge *only* to the charges framed under sections 468/471 of the IPC, submitting that though the other charges are refutable based on evidence, insofar as the charges under sections 468/471 of the IPC are concerned, there is absolutely no material on record that would warrant the framing of those charges against the petitioner.
13. It is argued that a perusal of the chargesheet would show that the prosecution is alleging offences under sections 468/471 of the IPC on the purported basis that the petitioner had forged relinquishment deeds dated 20.05.2002 of his sisters, in order to claim sole ownership of the property that is subject matter of the proceedings, and it is alleged that in that process the petitioner has forged the signatures of his two sisters. However it is pointed-out that the chargesheet also recites as follows :

“... ..The sisters of accused Rajeev Gupta Smt. Usha Sharma and Smt. Anita Ranjan stated **that both R/Deeds were made by them** and denied any case for handwriting samples since accused Rajeev Gupta is their real brother.... ..”

(emphasis supplied)

14. Accordingly, it is submitted that the two sisters, whose signatures the petitioner is alleged to have forged, have themselves admitted to the making of the relinquishment deeds; and there is therefore no basis to



frame charges against the petitioner under sections 468/471 of the IPC.

15. It is argued that on the basis of the relinquishment deeds executed by the sisters in his favour, the petitioner obtained mutation of the subject property in the records of the DDA *vide* mutation deed 17/18.12.2002, and there is no challenge to the mutation so obtained.
16. Mr. Mehrotra accordingly submits, that the impugned orders deserve to be set-aside, at least to the extent that charges have been framed against the petitioner under sections 468/471 of the IPC.
17. Ms. Manjeet Arya, learned APP appearing for the State on the other hand opposes the relief sought, submitting that the allegation of forgery for purpose of cheating under section 468 IPC, and of using a forged document as genuine under section 471 IPC, are not restricted only to the 02 relinquishment deeds referred-to by the petitioner, but also to the fact, that after having first sold and having given possession of the subject property to the complainant through his Power of Attorney holder - Judge Chawla - the petitioner thereafter wrested-back possession and sold the subject property to a third party, after cancelling the documents that were executed in favour of the complainant.
18. The court has heard Ms. Vaneeta Khanna, who also appears for her husband - Mr Arun Khanna (complainant) - and who is also an affected party since certain documents were executed in her favour as well as in favour of her husband.
19. Ms. Khanna has given a full narration of her grievances, claiming that the petitioner had received the entire sale consideration through his



Power of Attorney holder/Judge Chawla and had given possession of the subject property to the complainant and her husband; however the petitioner thereafter took-back possession under the ruse that he wanted to retain one room in the subject property until he found alternate accommodation. She submits, that thereafter the petitioner proceeded to cancel the General Power of Attorney executed by him in favour of her husband, as well as the Will executed in her favour, and in that way the petitioner cheated the complainant and her husband.

20. Considering the circumstances obtaining in the matter, this court is in no doubt that the order on charge and the order framing charge, both dated 29.03.2011, leave much to be desired since these orders bear no reference whatsoever to any material/evidence that may have come on record by way of the chargesheet. This court is also of the view that order dated 08.11.2013 passed by the learned Sessions Court in the revision petition also misses the point of challenge to orders dated 29.03.2011 passed by the learned Magistrate. However, this court also cannot lose sight of the fact that the said two orders were passed way back in *March 2011*.
21. That being said, since the present petition has been pending before this court since 2014, viz. for the last about 11 years, and the orders under challenge were passed about 14 years ago, the considerations that weigh with this court are the following :
 - 21.1. Even if the charges framed under sections 468/471 of the IPC are set-aside, that would not change the court in which the



petitioner is presently facing prosecution, viz. the matter would still remain before the learned Magistrate;

21.2. Since the allegations of forgery and fabrication of documents have been made in the backdrop of allegations of cheating and criminal conspiracy, whether or not the allegations under sections 468/471 of the IPC are made-out, would best be left for consideration in the course of trial; and

21.3. Charges in the matter were framed in 2011; evidence in the matter is being recorded ever since the dismissal of the revision petition in 2013; and quashing of charges relating to some of the offences *at this late stage* would only result in further delay in the trial.

22. In view of the aforesaid circumstances, this court is not inclined to interfere with order dated 08.11.2013 passed by the learned Sessions Court; nor with the two orders dated 29.03.2011 passed by the learned Magistrate.

23. The petition is accordingly dismissed.

24. Pending applications, if any, also stand disposed-of.

25. It is however made clear that nothing observed in this order would affect the merits of the matter, which would be considered independently by the learned trial court.

26. The date of 03.03.2025, given earlier stands cancelled.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 10, 2025/ak