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

% ***Pronounced on: 11th November, 2025***

\+ **CRL.M.C. 2719/2017, CRL.M.A. 11257/2017, CRL.M.A.48249/2018 & CRL.M.A. 5152/2022**

1. **SIMARDEEP SINGH ARORA**
S/o Mohinder Singh Arora

2. **JASPREET KAUR**
W/o Simardeep Singh Arora

3. **MANDEEP SINGH ARORA**
S/o Mohinder Singh Arora

All R/o. Post Box 38755,
Sharjah,
United Arab Emirates

.....Petitioners

Through: Mr. Vikram Aditya Bhaskar, Advocate

versus

1. **STATE (N.C.T OF DELHI)**

2. **GURVINDER DHODI**
S/o Late Harbans Singh
R/o M-37/B1, Rajouri Garden,
New Delhi

.....Respondents

Through: Mr. Shoaib Haider, APP for the State
Mr. Dalip Singh, Advocate for R-2

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Sections 482/483 Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) read with Article 227 Constitution of India has been filed to challenge the Order dated 20.10.2016, whereby the Ld. MM has summoned the Petitioners for the offence under Section 420 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) in a Complaint Case No. 139/1/13 filed by Respondent No. 2/Complainant Gurvinder Dhodi.

2. ***Briefly stated***, a Complaint under Section 200 Cr.P.C. supported with an Application under 156(3) Cr.P.C. was filed by the Complainant-Gurvinder Dhodi against 05 people, namely Mohinder Singh Arora, Daljit Kaur, Simardeep Singh Arora, Jaspreet Kaur and Mandeep Singh, out of whom, 03 are the Petitioners herein.

3. According to the averments made in the Complaint, Gurvinder Dhodi was an NRI having his food stuff business in Sharjah UAE since 1985. He brought his nephew Petitioner No. 1 Simardeep Singh Arora, as a Manager for his Company in UAE, in the year 2000. Due to some conflict with Sharjah Municipality, Complainant was deported from UAE in October, 2007. Upon deportation, he handed over his entire business finance, cash in various banks and in hand, post-dated cheques of debtors, cheque books and all movable and immovable assets, bank and property related documents along with his entire office to Simardeep Singh Arora in good faith and on the assurance of his brother-in-law and sister, The Complainant also gave various Power of Attorney to Simardeep and to his father Mohinder Singh Arora, who gave the assurance to keep the business

and the assets intact and that would work as the representative of the Complainant only for his gain.

4. The Complainant used to hand over the signed blank cheque books to Mohinder Singh Arora and his sister Daljit Kaur, (Accused No. 2), parents of Simardeep Singh Arora and Mandeep Singh on a regular basis since 2012 in Delhi and they used and send through post or trusted person, to Simardeep Singh. Somehow, Mohinder Singh Arora, his wife Daljit Kaur and their son Simardeep Singh, being aware that due to deportation Orders, Complainant would not be allowed to come back to UAE, with *mala fide* intention in a criminal conspiracy, forged documents and got transferred one by one, in his name, all the assets and the Companies/Firms of the Complainant on the basis of Power of Attorneys.

5. Simardeep Singh Arora along with his parents and brother, started withdrawing huge amounts from the Complainant's Companies and diverting finance to his parents and other relatives and Companies in India and other foreign countries, thereby ruining the established business of Complainant in Sharjah, through money laundering activities. When he came to know of this, he sent his brother Surinder Pal Singh to Sharjah to find out what actually was happening. When Surinder Pal Singh reached there, he was not allowed to enter the business or see the documents. Simardeep Singh Arora declared himself as the owner of all the business and Companies which were actually owned by the Complainant.

6. Simardeep Singh Arora illegally used one of the blank cheques to issue it in the name of Mohammed Ali Syed, for UAE Dirham 12 million, who was equally involved with him in this fraud. The Criminal Case No. 1593/2012 for breach of trust has already been filed in UAE.

7. Mohammed Ali Syed got his cheque dishonored and filed Criminal Case No. 9130/2012 against the Complainant on account of cheque dishonor. The Complainant further averred that the hearing was done in the absence of the Complainant and the Court proceeded against him *ex parte* and convicted him for with 03 years imprisonment. The Complainant asserted that no Notice of the case was ever served upon him to defend his case despite the fact that Simardeep Singh Arora and Mohammed Ali Syed were both aware of the residential address, telephone number, etc. of the Complainant in India, since he was deported from UAE.

8. Furthermore, Mohinder Singh Arora and his wife Daljit Kaur in connivance with their son Simardeep Singh Arora, forged his signatures and opened other bank accounts in the name of the Complainant's Companies and transferred funds from his personal account and diverted huge funds to Mohinder Singh Arora and Daljit Kaur. Mohammed Ali Syed who was a friend of Complainant for the last 20 years, also connived with other Accused to fraudulently and illegally grab the properties of the Complainant in UAE. He was under the deluded impression and hope that the Police would redress his grievances by making local inquiry. However, for the reasons best known, no case was registered.

9. Thereafter, the Complainant made a Complaint dated 30.04.2012 to DCP Delhi, despite which no action was taken. He then made Complaints dated 24.06.2013 and 27.06.2013 to SHO but to no avail. It is asserted that in the light of the observations of the Apex Court in *Ramesh Kumar v. State and Ors.* 2006 (2) SCC 677 and *Lalita Kumari v. Govt. of UP* (2013) 14 SCC 1 decided on 14.07.2008, the FIR should have been registered on receiving the Complaint disclosing cognizable offenses. Hence, a prayer was

made that the FIR be registered for the cognizable offences disclosed in the Complaint.

10. The Application under Section 156(3) Cr.P.C. was dismissed by learned MM *vide* Order dated 12.09.2013.

11. The Complainant in support of his case, examined himself as ***CW1-Gurvinder Singh Dhodi*** and deposed about the contents of his Complaint. ***CW2-Smt. Krishana, Assistant Ahlmad***, Tis Hazari Court, Delhi, produced the original case file of Civil Suit No. 121/2014 titled *Gurvinder Dhodi v. Mahindra Singh and Ors*. The documents were taken on record which were already marked Ex. CW1/B to CW-1/F.

12. ***CW3-Sh. Onkar Singh***, deposed that his wife Inderjeet Kaur is the younger sister of the Complainant. He knew that the Complainant and his family and also Mohinder Singh and Daljit Kaur, who along with his children are settled in UAE. He deposed of extremely cordial relations with the Complainant and that his family used to regularly visit the Complainant in UAE and his house was located nearby. During his random visit, he many a times saw Gurvinder Singh signing blank cheque books and handing them over to Daljit Kaur and Mohinder Singh and on each occasion, he cautioned the Complainant against doing so.

13. The Ld. MM after due consideration of the evidence, led on behalf of the Complainant, concluded that all the Accused persons are summoned for the offence under Section 120B IPC. Accused No. 1, 2, 3 and 5 i.e. Mohinder Singh Arora, Daljit Kaur, Simardeep Singh Arora and Mandeep Singh (in the Complaint) cheated the Complainant and therefore, summoned them under Sections 406/408/420 IPC. It is also noted Accused No.4, Jasprit Kaur hatched a conspiracy with Accused No. 1,2,3 and 5 and therefore, she

was summoned for the offence under Section 406 IPC. Further, the Ld. MM has also summoned Accused No. 1,2,3 and 5 i.e. Mohinder Singh Arora, Daljit Kaur, Simardeep Singh Arora and Mandeep Singh (in the Complaint) for the offence under Section 420 IPC.

14. Aggrieved by the said Order of cognizance on the Complaint and summoning of the Petitioners, the present Petition has been filed.

15. The main ***grounds*** of challenge are that the Ld. MM has arrived at an erroneous conclusion that the Petitioners and other Accused persons had transferred the shares and properties of the Complainant Companies, in the absence of even a single document filed by the Complainant in support thereof. There is no concrete proof of either the ownership of the Companies or their transfer by the Petitioners.

16. It is asserted that even if it is admitted that a Power of Attorney as produced by Respondent No. 2 existed, still it does not constitute an offence by itself. Not even a single document has been filed to show the misuse of the Power of Attorney. The elements of the offence of *criminal breach of trust* by the Petitioners and other Accused persons are not made out from the Complaint.

17. To establish the *offence of cheating*, it was necessary to prove that the Complainant suffered wrongful loss and the Petitioners correspondingly gained wrongful profit.

18. Furthermore, it is also not appreciated that the allegation of withdrawal of Rs.47 lacs by the Petitioner, as alleged by Complainant, Gurvinder Dhodi, is also not stated in the Complaint and is an improvement to the averments. The Complainant has not produced any bank account details and bank statements, from where the money has been allegedly

siphoned. There is not an iota of information disclosed by the Complainant regarding his bank details and ownership documents of the Companies.

19. The Ld. MM has relied upon the documents filed in various civil proceedings even when none of these documents have been admitted by the Petitioners and other Accused persons in their Written Statements. These civil proceedings are *sub judice* and the admission and denial of the documents is yet to be done by the parties, thereby making the claim of the Complainant infructuous.

20. Furthermore, not a single explanation has been given by the Respondent No. 2/Complainant for the delay of more than 06 years in filing the Complaint, when allegedly the offence took place in the year 2006.

21. It is asserted that the Complainant has not approached the Court with clean hands. He had stated in his pre-summoning evidence that he was proceeded *ex parte* in the cheque dishonour case by UAE Court. However, for the same cheque, a Decree has also been passed by the Sharjah Court in the first instance which was unsuccessfully challenged by the Complainant upto Federal Supreme Court of UAE and the Execution of the same is pending in the Court of learned ADJ, Tis Hazari Court titled *Mohammad Ali Syed Abdullah v. Gurvinder Dhodi* Execution Petition No. 6098/2016.

22. It is further submitted that Respondent No. 2 has failed to disclose the *Trading License* of the Company which expired in 2006. All the Company assets and properties were attached in various Court proceedings pending against the Complainant in UAE. Not even a single document has been filed to establish any connection between the three Petitioners with the business of the Complainant. Pertinently, Mohammad Ali Syed has not been made a party to the present proceedings.

23. The Impugned Order dated 20.10.2016 suffers from patent illegality and the summoning Order is contrary to law. Reliance is placed on *Pepsi Foods Ltd. v. Special Judicial Magistrate*, (1998) 5 SCC 749.

24. It is further contended that the Court of Ld. MM had no jurisdiction to take the cognizance in the present case. No part of the offence alleged, was committed within the local area of the Ld. Metropolitan Magistrate. Merely because of vague averments that the money was laundered, would not confirm any jurisdiction on this Court. The alleged offence was commissioned outside India and would be governed by Section 188 Cr.P.C.

25. Accordingly, it is prayed that the present Petition be allowed.

26. *A prayer is, therefore, made that the Impugned Order of summoning dated 20.10.2016 be set aside against the three Petitioners.*

27. ***The Respondent No.2/Complainant has filed a detailed Reply*** wherein it is asserted that the present Petition is not maintainable as the counsel for Petitioners has only filed one Power of Attorney executed in the name of Petitioner No. 1/Simardeep Singh Arora and there is no Power of Attorney or authorization on behalf of Petitioner No. 2/Jaspreet Kaur and Petitioner No. 3/Mandeep Singh Arora.

28. In the Civil Suit filed by the Complainant, Simardeep Singh/Petitioner No. 1 along with Mandeep Singh Arora and other co-accused Daljit Kaur and Mohinder Singh, has filed the Written Statements wherein they had admitted of being provided with 2 GPAs of the year 2002 and 2004 out of which one GPA has been marked 'C' in the summoning evidence of the Complainant. In the respective Written Statements, the Petitioners have admitted that "*thus, he executed a GPA to manage the Company on his behalf on 29.10.2002 with the name Gurvinder Pal Singh.*"

It is crystal clear that there are admissions of the giving of Power of Attorney only to manage the Company and the business, in the absence of Respondent No. 2/Complainant. It establishes that the Power of Attorney has been misused by Simardeep Singh Arora in connivance with other Accused persons, to grab the Companies and the money of the Complainant illegally/fraudulently. These documents thus, corroborate the case of the Complainant.

29. The Respondent No. 2/Complainant further asserts that material facts have been concealed from this Court as it is not indicated in the entire Petition that there were 05 persons in all, who have been summoned as Accused *vide* Impugned Order dated 20.10.2016 by the Ld. MM and two of the summoned co-accused, namely, Mohinder Pal Singh and Daljit Kaur had approached the Court of Sessions by way of Revision Petition while the present three Petitioners, had approached this Court by way of present Petition.

30. This clearly indicates that two forums have been approached by the different Accused persons which merits dismissal of the present Petition. It has also been concealed that multiple FIRs have been registered against them, on the Complaints of Respondent No. 2 and many civil cases filed by him, are pending against him.

31. Insofar as the conviction of three years in the cheque bounce case is concerned, it has not been revealed that Respondent No. 2 had filed an Appeal against this conviction and was acquitted by UAE Court in the Appeal. The facts have thus, been twisted by the Petitioners.

32. It has also been concealed that Section 340 Cr.P.C. proceedings filed by the Complainant against Simardeep Singh, Power of Attorney

holder of Mohammad Ali Syed and the Petitioner No. 1/Simardeep Singh Arora is pending in the Execution Petition before the Ld. Trial Court, Tis Hazari Court, Delhi. The further concealment of facts has been made regarding the close relationship of Petitioners with Respondent No. 2. The Petitioners No.1 and 3 i.e. Simardeep Singh Arora and Mandeep Singh Arora are real nephews of the Complainant and the other summoned co-accused, namely, Daljit Kaur is the real sister while Mohinder Singh is her husband.

33. The factum of their sponsorship by Respondent no. 3 through his Company Al Fadel in UAE in the year 2001 and 2004, respectively has also been concealed. It is claimed that the Petitioners have taken contradictory stand in two different cases to suit his convenience and to take advantage in both cases as the same Counsel is representing Ravinder Kaur, ex-wife of the Complainant, in Maintenance Case bearing No. 569/2014 who has always been part of the conspiracy against the Respondent No. 2.

Submissions heard and record perused.

34. The ***first preliminary objection*** taken by the Petitioners is in regard to lack of jurisdiction of the Ld. MM, in terms of Section 188 Cr.P.C., which reads as under:

> ***Section 188: Offence committed outside India*** - *When an offence is committed outside India—*
> *(a) by a citizen of India, whether on the high seas or elsewhere; or*
> *by a person, not being such citizen, on any ship or aircraft registered in India, he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found; Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no*

such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

35. The bare reading of this Section would show that where the offense is committed outside India by a person who is a citizen of India or while he is on a ship or aircraft registered in India, then he may be dealt with in respect of such offence as if it has been committed in any place within India. The rider provided is that for such trial of offence, the prior sanction of the Central Government would be taken.

36. This aspect has been duly considered by the Apex Court in *Sartaj Khan v. State of Uttarakhand*, (2022) 13 SCC 136, wherein it was observed that the proviso to Section 188 will not be attracted if the part of the offence was committed in India. It was held thus:

> ***13.*** *In terms of Section 188, even if an offence is committed outside India, (a) by a citizen whether on the high seas or anywhere else or (b) by a non-citizen on a ship or aircraft registered in India, the offence can still be tried in India provided the conditions mentioned in said section are satisfied.* ***The section gets attracted when the entirety of the offence is committed outside India; and the grant of sanction would enable such offence to be enquired into or tried in India.***
> ***14.*** *As the facts and circumstances of the case indicate, a part of the offence was definitely committed on the soil of this country and as such going by the normal principles the offence could be looked into and tried by Indian courts.* ***Since the offence was not committed in its entirety, outside India, the matter would not come within the scope of Section 188 of the Code and there was no necessity of any sanction as mandated by the proviso to Section 188****. We, therefore, reject the first submission advanced by Mr Sharma.*

37. Therefore, it is a settled position of law that the Section 188 Cr.P.C. is inapplicable where part of the cause of action has arisen within India.

38. In the present case, the averments made by the Complainant were that he was residing in UAE and was doing business but because of the conviction, he was deported and he came to India in the year 2007 while executing a Power of Attorney in favour of Simardeep Singh, to continue management of his businesses. He has further asserted that he had given blank cheques and from time to time till 2012, he was being made to sign the blank cheques within India which were handed over to Simardeep Singh and other Accused in Sharjah.

39. It is quite evident that *prima facie* at this stage, that part of the commission of the offence was committed in India where Complainant committed certain acts of signing blank cheques, etc., which are being misused allegedly in Sharjah, UAE. It is not a case which comes squarely under Section 188 Cr.P.C. as part of the offence has been committed in India. *Therefore, it cannot be said that this Court has no territorial jurisdiction or that Section 188 Cr.P.C. is applicable*.

40. The ***second ground of challenge*** is that no *prima facie* offence is made out in the Complaint. The Complaint did not contain any details but the same has emerged for the first time in the testimony of the Complainant who appeared as ***CW1-Gurvinder Singh Dhodhi***.

41. Pertinently, in the Complaint, the Complainant has given the relevant facts about the Power of Attorney being given by him to the Petitioner No.1, Simardeep Singh Arora, who has been misused it in criminal conspiracy with other Accused persons.

42. The Complainant in his testimony has further produced all the relevant documents, which have been exhibited. To say that the material

particulars were not mentioned in the Complaint or that there is a marked improvement in the statement of the Complainant, is not tenable.

43. *Now what needs to be examined is whether from the Complaint and the evidence of the Complainant and the other witnesses any offence is disclosed against those Petitioners*.

44. The Complainant in his testimony has deposed that he was doing his food business in Sharjah, UAE since 2000. He had brought his nephew Simardeep Singh Arora/Petitioner No. 1 to UAE as an employee/Administrative Manager in accordance with the local labour law and *Employment Resident Visa* was renewed every three years. Hence, in the year 2003, he was working with the Complainant and the Government in UAE approved Employment Contract No. AOF3898CCL005 dated 12.03.2003 to work in the Company of the Complainant on a salary of UAE Dirhams 6000/- plus 1200 allowance. This Contract was renewed in the year 2006 till 2009. The copy of the Employment Certificate is collectively Ex. CW1/B, which is starting from 2003. This Employment Certificate thus, *prima facie* corroborates that Simardeep Singh had gone to UAE on the sponsorship of the Complainant and had joined his Company as an employee.

45. As per the Complainant, later Petitioner No.3/Mandeep Singh, brother of Simardeep Singh was also called by the Complainant to join his Company as an employee in 2004, but no documents are available in this regard.

46. The Complainant has further asserted that he was the owner of the Company ***Al Fadel.*** It is asserted that since the Complainant used to travel out of UAE for business purpose and therefore, he executed a Power of Attorney in 2002 Ex. CW1/C in favor of Simardeep Singh. *Prima facie,* the

Power of Attorney also corroborates that the same had been issued in favor of the Petitioner No. 1/Simardeep Singh for the purpose of management of the affairs of the Company and also to represent the Company in any litigation with the Departments.

47. Pertinently, there is no clause in the Power of Attorney which authorized Simardeep Singh to transfer this Company to the third party or to close it. The Petitioner has proved a Share Sale and Assignment Contract dated 30.09.2007 Ex. CW1/D whereby the shares in Al Fadel Trading has been transferred in the name of *Simardeep Singh*. This document recorded that Mr. Nasir Qambar Mohammad Bardan, UAE National and *Mr. Gurvinder Dhodi (Complainant), Indian National*, were the owners of M/s Al Fadel Trading LLC established in Sharjah, UAR *vide* Memorandum of Association dated 06.08.1998.

48. Pertinently, the Complainant has also proved Notice dated 30.09.2007, Ex. CW1/E which has been issued to general public that Gurvinder Dhodi has transferred his share estimate in 49 shares in the capital of Al Fadel Trading LLC to Simardeep Singh Arora.

49. It is further recorded in Ex. CW1/D that the second party i.e. Gurvinder Dhodi (Complainant), transferred his entire 49 shares to Simardeep Singh Arora. Pertinently, it has been also recorded that Gurvinder Dhodi was being represented by Simardeep Singh Arora through the Power of Attorney. From this document Ex. CW1/D itself, it is evident that while the Complainant was in India and had entrusted his businesses to Simardeep for being run on and for his behalf, by Simardeep on the basis of a Power of Attorney, which did not empower him to transfer or close his Company, which Simardeep did vide Share Sale and Assignment Contract

dated 30.09.2007. These acts of Simardeep *prima facie* disclose that *there is breach of trust and cheating of the Complainant.*

50. It is also deposed by the Complainant that he had another Company by the name of ***Sharjah Cold Store*** which also has been disposed of by Simardeep and the other Accused persons and Rs.47 lacs so realized from the sale of that Company, has been transferred to the account of Petitioner No. 2/Jaspreet Kaur w/o Simardeep Singh Arora.

51. The Declaration of Ammar Mohammed Yousuf Jasim Al Dokhi, has been placed on record wherein he has stated *that Sharjah Cold Store* (sole establishment) founded in Sharjah in 2005, was under his name, but the true ownership was with Gurvinder Dhodi as he did the 100% investment in the Company. He further stated that Simardeep Singh Arora who was the nephew of Mr. Dhodi and was working as a Manager. It is stated that Mr. Ammar executed a Power of Attorney in favour of Gurvinder Dhodhi and that the name of Simardeep Singh was inserted on the instructions of Mr. Dhodhi, to look after the business of the establishment in the absence of Mr. Dhodi.

52. In the year 2012, Simardeep Singh informed that Gurvinder Dhodi has run away from UAE after cheating him and has taken a lot money from the market. He also told that since his name appeared as the owner in the Trade License, he could get into creditors and financial problems in the market. To avoid all such problems, he agreed to convert the *proprietorship license* into a *sponsorship license*. Also trusting his words and assuming that he would be free from all liabilities, he inserted the name of Simardeep Singh, and on completion of all the formalities, the trade license was converted into a sponsorship license on 19.02.2012.

53. Later, he found that Petitioner No.1/Simardeep Singh had misinformed and manipulated him to get the transfer of entire business and assets of Sharjah Cold Store to his personal name, which in fact belonged to Mr. Dhodi (Complainant).

54. These two facts came to his knowledge subsequently when he came to know that Gurvinder Dhodi had been deported from UAE in December 2007 by the authorities and thereafter, his business of Sharjah Cold Store was being looked after by Simardeep Singh Arora on his behalf and as per his instructions. Business in this company was conducted from 2005 to 31.12.2011. As per the Balance Sheet, there was an amount of Dirhams 48,524,421, in the bank accounts of the Company which belonged exclusively to the Complainant. Simardeep Singh Arora was only a caretaker of the business in the absence of the Complainant. The advantage was taken by him, who in the absence of Mr. Dhodhi, took over the business fraudulently being aware that Gurvinder Dhodi would not be able to come back to UAE.

55. Pertinently, it is not disputed that Rs.47 lacs were received from the sale of Sharjah Cold Store business, which have been transferred to the account of Petitioner No. 2/Jaspreet Kaur.

56. The testimony of ***CW1-Gurvinder Singh Dhodi***, which is supported by documents, *prima facie* shows that the Ld. MM has rightly concluded that it has been shown that there were misuse of the Power of Attorney and the cheques issued by the Complainant/Respondent No.2 and they have siphoned off huge money from the business that was owned by the Complainant, in their own account.

57. The Ld. MM has thus, rightly concluded that *prima facie* offences under Sections 406/408/409 IPC are made out against the Petitioners/Accused persons. Additionally, *prima facie*, offence under Section 420 IPC is held to be made out against the Petitioners No. 1 and 5.

58. There is no infirmity in the Impugned Order dated 20.10.2016 of the Ld. MM. Before concluding, it may be mentioned that the Revision Petition was filed by Mohinder Singh Arora and Daljeet Kaur before the Revisional Court of learned ASJ, which has been dismissed *vide* Order dated 31.08.2018. The three Petitioners herein have chosen to come to this Court instead of going to Ld. ASJ.

59. However, in the light of aforesaid discussion, it is held that there is no merit in the present Petition, which is hereby, dismissed. Pending Applications, if any are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 11, 2025
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