
(2004) 08 DEL CK 0117

In the Delhi High Court

Case No : Bail Application No. 1198 of 2004

Kamal Narain Kapoor and Another

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 04-08-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2004) 112 DLT 942

Hon'ble Judges : B.N. Chaturvedi, J

Bench : Single Bench

Advocate : Sidharth Luthra, for the Appellant; Pawan Sharma, APP, for the Respondent

Judgement

B.N. Chaturvedi, J.—According to the complainant he had advanced a loan of Rs. 15 lacs to a sole proprietary firm M/s. Uma Shankar Kamal Narain of the petitioner No. 1 by way of an account payee cheque and another. sum of Rs. 5,50,000 /- in cash. The petitioner No. 1 issued some post-dated cheques payable during the period from January, 2000 to November, 2000. These cheques continued to be with the complainant. He is not shown to have ever presented these cheques on due dates for encashment thereof. Further allegation is that it was on 16th February, 2004 that he handed back those post-dated cheques to the petitioners on their promise that the same would be replaced by fresh ones and that the balance amount would be paid by way of a pay order in a day. Acting on such representation, the complainant is alleged to have had handed over those post-dated cheques to the petitioners. His allegation is that by making a false promise to the said effect the petitioners induced him to hand over the post-dated cheques and thereby cheated him of the valuable security.

2. Learned Counsel for the petitioners contends that in fact only a sum of Rs. 15 Lakh was advanced as loan by the complainant by way of cheque which amount had long back been repaid to him. He further contends that the post-dated

cheques, which the complainant is referring to, were handed over to the complainant only by way of security for repayment of loan and after the loan had been repaid those cheques had long back been returned by the complainant to the petitioners. It is further contended that even though the petitioners are alleged to have had failed to repay the loan amount for period of four years the complainant continued to keep the post-dated cheques with him without ever presenting the same to the bank for encashment and without initiating any legal action for recovery of loan amount.

3. Keeping in view the facts and circumstances of the case, the petitioners are admitted to anticipatory bail and in the event of their arrest, they are directed to be released on bail on their furnishing personal bond for Rs. 10,000/- with one surety each in the like amount to the satisfaction of the Arresting Officer concerned.

Petition is disposed of.

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