
(2011) 10 RAJ CK 0015

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 7089 of 2011

Narendra Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 18-10-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 173(8)
Penal Code, 1860 (IPC) — Section 120B, 341, 406, 420, 448

Citation : (2012) 3 RLW 2539

Hon'ble Judges : Raghuvendra Singh Rathore, J

Bench : Single Bench

Advocate : Bajrang Lal Sharma, with Mahesh Gupta, for the Appellant; G.S. Rathore, Public Prosecutor and A.K. Gupta with V.S. Poonia, for the Respondent

Final Decision : Dismissed

Judgement

Raghuvendra Singh Rathore, J.—Heard the learned counsels for respective parties and perused the material on record including the one filed along with challan. The prosecution case is that a report came to be lodged by one Prateek denial Dean on 8.2.2009 at Police Station Sadar, Jaipur (West), Jaipur. It was stated in the report that the Rajasthan Bible Institute, Mubarak Bagh, Ajmer Road, Jaipur is registered in accordance to the Laws of Registration of Societies (Registration No. 129/1973-74 dt. 22.9.1973). On 14.9.2007, a meeting of the governing body of the institute was held wherein Narendra Singh was appointed as officiating Joint Director along with Dr. Jwali and a letter in that respect was issued under the signature of the Chairman, Wilson Londe. A decision was also taken in the said meeting that for the purpose of bank transactions, Narendra Singh, Dr. Jwali and Smt. Ponamma Thomas would be the authorized persons. Later on the Chairman of the Board had written a letter to the Bank Manager on 28.2.2008 informing that four persons, namely; Narendra Singh, Vijay Pal Singh, Prateek Denial and Ponamma Thomas shall be the authorized persons for the transactions in the bank, out of which signatures of three persons shall be necessary for withdrawal of the amount and amongst them the signature of

Prateek Denial, treasurer, is necessary.

Thereafter, the petitioner Narendra Singh is said to have started mismanaging the affairs of the institute by trying to tamper with the documents relating to its properties and also by misbehaving with the employees. Consequently, the management board had, on 26.3.2008, brought to an end the services of Narendra Singh as officiating Joint Director, but Narendra Singh did not step down, even after his termination from the post and took help of anti-social elements to have unauthorized hold over the institute and the employees were not allowed to come for work. Subsequently, Vijay Pal Singh was appointed as Joint Director but he too was not allowed to enter the premises of the institute. A letter was then issued to the Bank, by the Chairman of the Board on 7.4.2008, informing about the termination of Narendra Singh and the appointment of Vijay Pal Singh as officiating Director and also three authorized signatories, namely; Vijay Pal Singh, Smt. Ponamma Thomas and Prateek Denial for the purpose of operating the bank account. But the petitioner Narendra Singh continued to operate the bank account of the institute and had withdrawn lacs of rupees, with he connivance of Chandra Shekhar Paliwal, Bank Manager, who had totally ignored the instructions issued by the Chairman of the Board. It is alleged that a total amount of Rs. 56 lacs has been taken away by the petitioner from the account of the institute. The convener of the institute, Shri C. David, had also informed the bank manager, from time to time, by issuing letters that the service of Narendra Singh as Joint Director has been put to an end.

It is also alleged in the report that after 26.3.2008, Narendra Singh had sold away various vehicles belonging to the institute, such as, one Ambulance, two buses and three tata sumo jeeps. Further, it is alleged that Narendra Singh had illegally taken into custody the documents with regard to the immovable properties of the institute situated in villages Sarangpura and Bhambhoria and he is also trying to sell out the dispensary of the society and other lands. It is mentioned in the report that Narendra Singh is in illegal possession of the premises of the institute and gradually he is converting its movable and immovable property in his own name, resulting in financial loss of crores of rupees.

On the said report, an FIR (45/2009) was registered at police Station Sadar for the offence under Sections 341, 448, 420, 406, 467, 468, 471, 506 and 120-B IPC.

2. The preliminary investigation of the case was conducted by Chand Singh, Sub-Inspector, by recording the statement of the witnesses and collecting relevant documents from the institute as well as Deputy Registrar, Cooperative Societies. On the instructions issued by Additional Superintendent of Police (Vig.), Chief Minister, Rajasthan, on 23.2.2009, the investigation was transferred by orders of the Additional Superintendent of Police (Crime and Vigilance), Jaipur Range-I on 24.3.2009 to Damodar Lal Meena, Deputy Superintendent of Police, He had concluded the investigation and submitted a final report on the ground of

absence of the evidence and of civil nature.

3. In compliance of the orders issued by the Superintendent of Police, Jaipur City (South), the final report was re-opened and the matter was handed over for further investigation to Rajesh Meena and Jai Narain Sher, Additional Superintendent of Police, Jaipur City South). The statements of the complainant and other witnesses were recorded.

Subsequently, the investigation was carried out by Har Sahai Meena, Inspector of Police under the close supervision of Shanker Dutt Sharma, Additional Superintendent of Police, Jaipur (South). They had called upon both the parties, recorded the statement of the election officer Shri Ennocent Nelson and had taken on record the documents produced before them. Affidavits of various persons and the statements u/s 161 Cr.P.C. were recorded and after investigation they had come to the conclusion that the alleged offences are, prima facie, made out against the accused persons including Narendra Singh.

Thereafter, the matter was handed over to Rajesh Singh, Additional Deputy Commissioner, Jaipur (South) on 10.2.2011 for further investigation.

4. From the investigation made by the aforesaid investigating officers, it has been unfolded that the Rajasthan Bible Institute was established in the year 1973 and the same was registered in the office of Registrar, Co-operative Societies, Jaipur. The governing body was constituted by the founder members for the purpose of running the institute and had appointed Dr. Anand Choudhary as full time Director. After his death on 12.6.2007, the Chairman of the governing body, by holding a meeting of the board, appointed Arvind Jakob, a Senior Member, as Director of the institute. But on the ground of health, Arvind Jakob resigned from the post on 12.9.2007.

It was thereafter that the Chairman of the governing body had appointed two employees; Narendra Singh and Dr. Jwali, as officiating Joint Director. As Narendra Singh had started working in an arbitrary manner soon after his assuming the office, Dr. Jwali tendered her resignation from the post on 11.12.2007. On account of non-compliance of the instructions issued by the governing body and the complaints received with regard to harassment of the employees, the governing body in its meeting of 27.2.2008 had unanimously resolved to remove Narendra Singh from the post of officiating Joint Director. Accordingly, a letter was issued on 26.3.2008 terminating Narendra Singh from the post of Joint Director of the institute and in his place the Manager of the institute Vijay Pal Singh was promoted to the post of Director.

5. It is also revealed from the investigation that though Narendra Singh was not holding any post of the institute, obtained copies of the record from the office of the Registrar after submitting affidavits on 13.8.2007. Further, he had shown as meeting of the general body of the institute under the Chairmanship of his wife Smt. Pushpanjali and that the elections were held on 10.12.2007. It was also informed to the office of Registrar, Co-operative Societies, Jaipur on 15.2.2008

that new governing body of the institute had been constituted. The said elections were illegal as there is no such provision in the Constitution of the Institute. The proceedings of election were held under the supervision of Narendra Singh though he was never authorized for the same by the governing body for removal of its members, either under the Constitution of the institute or the Rajasthan Society Registration Act, 1958.

Besides, the said elections were held on 10.12.2007 but intimation in this regard was sent to the office of the Registrar only on 15.2.2008 i.e. to say 67 days thereafter whereas according to Section 4 of the Societies Registration Act, the same is to be sent within 15 days. According to the investigation, the entire election proceedings of the institute was got done not by holding any election but in the back date so as to control the institute. Subsequently appointed Director Shri Vijay Pal Singh was restrained from entering its premises. Further, it is revealed that the election officer Ennocent Nelson had filed his affidavit deposing that he never conducted any election and Narendra Singh had by misleading, got his signatures on some papers. More over, for holding election of a registered society, an election officer is always appointed by the Registrar, Co-operative Societies and the accused Narendra Singh was never authorized to have the election conducted nor Ennocent Nelson was appointed as election officer.

6. After obtaining the copies of the documents from the office of the Registrar, Co-operative Societies, which were filed by him after fabricating documents, Narendra Singh filed them in the bank and got the authorized signatories changed. The Manager of the Banki, Chandra Shekhar Paliwal, who remained on the said post since 17.6.2006 to 6.7.2008 was aware about the fact that the governing body alone was competent to nominate the authorized signatories but even then he permitted Narendra Singh to continue to operate the account of the institute. Even the Chairman and other members of the institute and time and again informed the bank manager on the subject but he did not restrain Narendra Singh from operating the bank account. The complainant side had then reported to the Bank Lokpal who directed, on 3.12.2008 and 15.12.2008, to have the account operated on mandate. Consequently, the then manager of the bank, Subhash Chand Arora stopped the operation of the bank account of the institute from 5.12.2008. Later on, Narendra Singh got the account of the institute transferred on the ground of unsatisfactory services, from Union Bank of India, Bapu Nagar Branch, Jaipur to the Bank of Rajasthan, Ganpati Enclave, Ajmer Road, through Ministry of Home, Government of India, by concealing the truth and despite of the fact that the institute had its account at Union Bank of India since 1985-86.

Ultimately, charge-sheet in the instant case came to be filed on 9.9.2011 against various persons including Narendra Singh for the offences under Sections 448, 420, 406m, 567, 471, 506 and 120-B IPC. The investigation as against other persons, namely; Smt. Pushpanjali Singh, Smt. Ponamma Thomas, Smt. Anjali Sudhakar, Sh. K.D. Singh, Chandra Shekhar Paliwal etc. had been kept pending u/

s 173(8) Cr.P.C.

7. Learned counsel for the accused petitioner has primarily submitted that there was no ground or just reason for re-opening the investigation when final report had been filed in the case. He has also submitted that the accused petitioner had not misused any amount of the institute. Further, he has submitted that the instant case is a dispute between the parties which is of civil nature. It has also been submitted by he counsel for the petitioner that the accused petitioner should no more be kept behind bars. In support of his submissions, reliance has been placed on the case of Kishan Lal Vs. Dharmendra Bafna and Another, .

8. On the other hand, learned public prosecutor has well as counsel for the complainant have seriously opposed the prayer for bail made on behalf of the accused petitioner. They had invited the attention of this Court, in detail, towards he evidence on record filed by the investigating agency along with the challan. They have also submitted that a bare perusal of the final report submitted earlier as well as the evidence which has been collected during the course of investigation goes to show that the reasons given for submission of the final report were neither based on material on record nor they were germane to the instant case in which the criminal offence has been committed by the accused persons. Therefore, they have prayed that the application for bail filed by the accused petitioner be dismissed. In support of their submissions, reliance has been placed on the case of State of Punjab Vs. Central Bureau of Investigation and Others, .

9. On having given my anxious and thoughtful consideration to the submissions made by the counsels for the rival parties as well as on careful perusal of the material on record filed along with challan, I am of the considered opinion that no case for grant of bail to the petitioner is made out. So far as re-opening/ further investigation of the case after filing of final report is concerned, it is not an issue to be commented upon by this Court at the stage of consideration of bail application as the said order was not challenged in higher Court and the fact remains that thereafter the investigation has been completed and challan filed against the petitioner.

Without referring to the facts in detail or making any observations on the merits of the case, at the state of consideration of bail, which may prejudice the case of either of the parties, it would suffice to say that taking into consideration the over all facts and circumstances of the case as revealed from the evidence on record collected during investigation as well as nature of allegation against the accused petitioner and the manner in which the crime has been committed, I do not find any just reason to enlarge the petitioner on bail. More over, other members of the Rajas than Bible Institute have lodged many reports against the petitioner since the year 2008, for commission of similar offences in which investigation have been completed, final reports have been filed, protest petitions have been submitted by the complainant and the same is seized with the concerning Magistrate etc.

Consequently, the bail application is dismissed. However, the learned trial Court is directed to expedite the trial by conducting the same on priority.