

(2018) 01 DEL CK 0599

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 320 Of 2018

Raj Kumar

APPELLANT

Vs

State And Others

RESPONDENT

Date of Decision : 30-01-2018

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 415, 465, 466, 467, 468, 471

Citation : (2018) 01 DEL CK 0599

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : T.R. Sharma, Anita Abraham

Final Decision : Dismissed

Judgement

Sanjeev Sachdeva, J

1. The petitioner impugns order dated 28.04.2016 passed by the trial court discharging the respondents of the alleged offences under Section 415 and

465 of the IPC. The petitioner further impugns the order of the Revisional Court dated 26.07.2016 dismissing the revision petition filed by the petitioner

against the order dated 28.04.2016 of the trial court.

2. It is contended by learned counsel for the petitioner that one Sh. Puran Chand was the owner of property bearing No. M-357, Chander Shekhar

Azad Colony, Kishan Ganj, Delhi.

3. It is contended that on his death the property was succeeded to by the petitioner who is the son of the first wife of Sh. Puran Chand and respondent

no. 2 and 3 who are the second wife and son of Sh. Puran Chand.

4. It is contended that respondent no. 2 Smt. Neena Devi registered a relinquishment deed in favour of Arun Chauhan, respondent no. 3 relinquishing

her entire share in the said property in his favour.

5. It is contended that in the relinquishment deed, she mentioned that deceased Sh. Puran Chand only left behind respondent no. 2 and 3 as legal heirs and no other legal heir.

6. The complaint was filed alleging commission of offences under Sections 465/466/467/468/471/120B/34 of the IPC.

7. Initially vide order dated 20.11.2012, the trial court directed framing of charges for the offences under Sections 465/467/468/471/120B/34 of the IPC which was unsuccessfully challenged by way of a revision petition. Thereafter respondent no. 2 and 3 filed a petition before this Court being Crl.

M.C. 4142/2013, titled as 'Neena & Anr. Vs. State & Anr.'

8. Vide order dated 10.02.2015 a coordinate bench of this Court was of the view that no offence of forgery was made out, however, remitted the matter to the trial court to pass an order afresh on charge and to ascertain whether offence of cheating is made out or not.

9. By the impugned order, the trial court was of the view that ingredients of Section 415 were not satisfied and accordingly no charge was framed.

10. At the outset, learned counsel for the petitioner concedes that ingredients of Section 415 are not satisfied and submits that ingredients of Section 465 are satisfied and accordingly charge should be framed under Sections 465/467/468/471/120B/34 of the IPC.

11. I am unable to accept the contention of the learned counsel for petitioner, in as much as, the allegations with regard to offences under Sections 465/467/468/471/120B/34 of the IPC is concerned, a coordinate bench of this court, in the earlier round, by order dated 10.02.2015 in Crl. M.C.

4142/2013 has already returned a finding that no offence of forgery is made out.

12. I am also in agreement with the view taken by order dated 10.02.2015. It is not the case of the petitioner that the document i.e. relinquishment deed is a forged or a fabricated document. The only contention is that the said document contains incorrect fact of ownership.

13. A misrepresentation or incorrect statement in a document would not render a document as a forged document so as to satisfy the ingredients of

Section 465 of IPC. The first and foremost requirement of Section 465 IPC is making of a false document. Making of a false document is distinct and

different from recording an incorrect fact in a document. It is no one case that

the Relinquishment Deed has not been executed by the executant (i.e.

Respondent No. 2) or that her signatures on the same are forged or fabricated.

14. As has been held by order dated 10.02.2015, no offence of forgery is made out. Even otherwise, the petitioner who was a party to Crl. M.C.

4142/2013 did not impugn the order dated 10.02.2015 wherein the Court had returned the finding that no offence of forgery was made out.

15. With regard to Section 415, learned counsel for the petitioner himself conceded that the ingredients of Section 415 are also not satisfied.

16. In view of the above, I find no infirmity in the impugned orders and find no merit in the petition. The petition is accordingly dismissed.

Crl. M.A. 1212/2018 (condonation of delay of 295 days in re-filing)

17. Since I have already dismissed the petition on merits, the application became infructuous. The application is accordingly dismissed.