
(2012) 11 DEL CK 0256

In the Delhi High Court

Case No : Criminal M.C. No. 4022 of 2012

Rajesh Nagpal and Others

APPELLANT

Vs

Central Bureau of Investigation

RESPONDENT

Date of Decision : 27-11-2012

Acts Referred:

Citation : (2013) 198 DLT 155

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Sandeep Kumar, for the Appellant; Narender Mann, Spl. P.P. with Mr. Manoj Pant, Advocate for the CBI, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Bhasin, J.—I have heard learned Counsel for the petitioners.

The petitioners are accused of having conspired with each other as well as many other persons for getting allotment of some land in the name of one Co-operative Society which at one stage was wound up but later on revived, after showing many of the original members to have resigned and enrolling fake members and thereafter replacing those fake members by their own people to benefit themselves and the new members by allotment of flats in the residential complex to be built upon the land which was got allotted from Delhi Development Authority. The allegations levelled against the petitioners in the charge-sheet and which have been accepted by the learned Special Judge while passing the impugned order on charge are that they were parties to those resolutions of the Managing Committee of the Society by the name of Bhagwati Cooperative Group Housing Society Ltd. in which fake resignations of originally enrolled members were shown to have been accepted and fake members were shown to have been enrolled and later on other members were shown to have been enrolled in place of earlier fake enrolments.

Learned Counsel for the petitioners has submitted that as far as the petitioner

No. 1 is concerned, there is no document placed on record by the CBI along with charge-sheet showing that in any of the so called false minutes of the meetings of the Managing Committee of the aforesaid Society he was either shown to be present or to have signed as an office bearer or a member of the Managing Committee of the Society and, therefore, there was no reason whatsoever for the learned Special Judge to have ordered framing of charge against him vide impugned order.

2. As far as petitioner No. 2 is concerned, learned Counsel submitted that though she was enrolled as a member of the Society after its revival in the year 2001 and she became a co-opted member of the Managing Committee of the Society on 26th August, 2001 and though some of the meetings of the Managing Committee she did attend and signed also in token of her having been present in those meeting but she cannot be fastened with any criminal liability just because in those meetings some fake resignations were allegedly approved and fake members were enrolled and as per the Rule 44 of D.C.S. Rules only the President, Secretary, Treasurer and Vice-President are liable for all acts of the Managing Committee of a Cooperative Society. It is further contended that merely for the reason that the petitioner No. 2 was present in those meetings and had signed the minutes she cannot be charged and tried for any offence and particularly that of conspiracy since there is no material brought on record by the CBI to show that she had the knowledge that the disputed resignations were not genuine as well as the enrolments of new members in lieu of those so called fake resignations.

3. Regarding petitioner No. 3 submissions were made that though on the disputed minutes of the meetings of the Managing Committee his signatures appeared to be there but to confirm that actually he had signed those minutes or not his specimen signatures were not taken by the investigating authority during investigation for being sent to the handwriting expert and since there is no witness who claims to have seen him signing those minutes he could not be charge-sheeted for any offence and further that even though petitioner No. 3 was the original member of the Managing Committee before its revival also merely because his being present in the disputed meetings and signing the minutes of those meetings even otherwise also will not make him liable criminally for the acts of the presentation of so called fake resignation letters by the President, Secretary, Treasurer or Vice-President of the Managing Committee.

4. As far as petitioner Nos. 2 and 3 are concerned, I find no merit in this petition and they are not entitled to be discharged for the aforesaid reasons urged by their learned Counsel. At the stage of consideration of charge the question whether they had any knowledge about some fake resignations being accepted in the meetings of the Managing Committee which they had attended or not is a question for trial and also a matter of their defence which they would be entitled to raise at an appropriate stage of trial that even though they were present in the disputed meetings they had really no knowledge of those resignations as well

as new enrollments being fake. Just because Rule 44 of D.C.S. Rules provides that the President, Secretary, Treasurer and Vice-President would be liable for the acts of the Society that would not mean that if any of the ordinary members of the Managing Committee is shown to have committed any crime he/she would not be liable to be proceeded against for the commission of that crime.

5. I, therefore, do not find any infirmity in the order of the learned Special Judge framing charges against the petitioner Nos. 2 and 3. This petition qua petitioner No. 2 and 3 is, therefore, dismissed in limine. As far as petitioner No. 1 is concerned since it has been contended on his behalf that there is no document whatsoever showing even his name as a member of the Managing Committee present in any of the meetings of the Managing Committee wherein the so called fake resignations were got approved and fake members were got enrolled, I am inclined to issue notice qua him only to the CBI. Mr. Narender Mann accepts notice and seeks time to file reply/status report.

Let a status report/reply in respect of the petitioner No. 1, Rajesh Nagpal be filed within three weeks and thereafter, list this petition on 28th January, 2013.