
(2010) 11 DEL CK 0158

In the Delhi High Court

Case No : Criminal M.C. No. 2064 of 2009 and Criminal M.A. 7647-7648 of 2009

S.R. Bansal

APPELLANT

Vs

State N.C.T. of Delhi

RESPONDENT

Date of Decision : 24-11-2010

Acts Referred:

Citation : (2010) 11 DEL CK 0158

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Om Prakash Shekhawat, for the Appellant; O.P. Saxena, Addl. P.P., Chandan Singh and Rahul Malik for V.K. Malik, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—By present petition, the Petitioner has assailed an order dated 8th December, 2007 whereby the learned MM took cognizance of offence against the Petitioner and issued summons for appearance against the Petitioner.

2. Brief facts relevant for the purpose of deciding this petition are that one Satwant Kaur, arrayed as an accused in a case was discharged in FIR No. 359/2001, P.S. S.N. Puri by the Trial Court. Against the order of discharge dated 2nd August, 2004, a revision petition was preferred before learned ASJ. The learned ASJ dismissed the revision petition vide his order dated 28th September, 2005. Against the order dated 28th September, 2005, Umrao Singh, complainant filed a Criminal Miscellaneous No. 6389/2005 and this Court vide order dated 29th October, 2007 allowed this Crl. Misc. and set aside order dated 28th September, 2005 and 2nd August, 2004 and directed the court to frame appropriate charge against accused Satwant Kaur and proceed in accordance with law. However, while disposing of the Crl. Misc., this Court made observations that the plea taken by S.R. Bansal that he had duly executed Power of Attorney (POA) in favour of Satwant Kaur does not seem to be correct as the POA was found to be prepared on a fake stamp paper and had not been notarized by the

Notary Public whose name appeared on POA and probably even S.R. Bansal was involved in the whole episode, but later on he seemed to have given protection to Satwant Kaur by executing an antedated POA on a forged stamp paper. After disposal of Crl. Misc. Petition by this Court and considering these observations, made by this Court, the learned Trial Court summoned S.R. Bansal also as an accused vide impugned order.

3. It is contended by the learned Counsel for the Petitioner that there was no material before the learned MM for summoning the Petitioner. Merely because the HC in its order had made certain observations against the Petitioner, would not be a sufficient ground for the trial court to summon the Petitioner as an accused. The Petitioner can be summoned in a criminal case pending trial only in accordance with law and not otherwise. The Petitioner could not have been summoned by the Trial Court unless there was sufficient material placed on record by the prosecution to show the involvement of the Petitioner.

4. S.R. Bansal was not initially summoned by the Trial Court. The Trial Court, while summoning an accused and taking cognizance had to consider the material available on its record. The material available on record of trial court was referred by this Court and this Court made observations and drawn inference against Petitioner on the basis of this material. The Trial Court, if it finds that sufficient material was on record to show that some other person was also involved in the offence, can summon such other person. The Trial Court in this case summoned the Petitioner not merely because this Court had made certain observations against him but because the investigation showed that alleged POA was on a forged stamp paper and even the signature of Notary Public were forged. I consider that the summoning of the Petitioner was rightly done. The petition is dismissed.