

(2001) 12 DEL CK 0071

In the Delhi High Court

Case No : Criminal M. (M) No. 4218 of 2000

Vijay Kumar Batish

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 04-12-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 438
Penal Code, 1860 (IPC) — Section 182, 191, 420, 467, 468

Citation : (2002) 95 DLT 56 : (2002) 61 DRJ 509

Hon'ble Judges : Kripa Shankar Gupta, J

Bench : Single Bench

Advocate : A.K. Singh, for the Appellant; M.N. Dudeja, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Gupta

1. Petitioner seeks anticipatory bail in case FIR No. 474/2000 under Sections 420, 467, 471, IPC, PS Lajpat Nagar.

2. Anil Kumar made a complaint to the Additional Chief Metropolitan Magistrate, New Delhi against the petitioner, inter alia, alleging that in a raid conducted at the clinic of petitioner a number of objectionable documents were recovered and he has learnt that those documents also included a General Power of Attorney alleged to have been executed by his deceased-father in favor of petitioner. Petitioner has fabricated documents regarding Shop No. 2/22, Main Market, Amritpuri, Garhi, Lajpat Nagar which is part of property measuring 300 sq. yds. in Khasra No. 143 which his father Des Raj Nagpal and uncle Kishanlal had purchased under a registered sale deed dated 14th February, 1966. His father expired on 8th August, 1996. On the basis of forged General Power of Attorney, Agreement to Sell etc. the petitioner has obtained ex-parte eviction order against him and he has, thus, rendered himself liable for the offences punishable under Sections 420, 467, 468, 471 read with Sections 182 and 191, IPC. This complaint

was sent for enquiry u/s 156(3), Cr. P.C. On the basis of complaint, police has registered the present case.

3. Original General Power of Attorney, Special Power of Attorney, Will, Receipt for Rs. 65,000/-, Agreement to Sell, all dated 1st July, 1989 alleged to have been executed by Des Raj Nagpal in respect of Shop No. 2/22, Main Market, Garhi, two affidavits allegedly sworn by Des Raj Nagpal on 1st July, 1989 Along with documents having admitted signatures of Des Raj Nagpal were sent for opinion to FSL and in the report it has been opined that disputed signatures Q-1 to Q-11 were not written by the person who wrote admitted signatures A-1 to A-3. During the course of arguments Mr. A.K. Singh has placed on record photostat copy so seizure memo in case FIR No. 434/2000 registered at the instance of Smt. Kalawati. It was pointed out by Mr. Singh that out of 16 documents recovered in the raid conducted at the clinic of petitioner on 25th May, 2000, only the document listed therein at Seriall No. 9 pertains to this case. This document is a General Power of Attorney allegedly executed by Des Raj Nagpal in favor of the petitioner concerning said Shop No. 2/22. According to Mr. Singh neither Anil Kumar, complainant nor I.O. has explained how they came to possess original Special Power of Attorney, Will, Receipt, Agreement to Sell and two affidavits, all dated 1st July, 1989 which were supposed to be with the petitioner and sent to FSL for comparison. It is admitted case of parties that in Eviction Petition No. 61/97 filed by the petitioner against said Anil Kumar on the ground of sub-letting of said Shop No. 2/22, Main Market, Garhi the statement of petitioner was recorded as PW1. Copies of that statement of petitioner, General Power of Attorney, Special Power of Attorney, Will, Agreement to Sell, receipts and two affidavits dated 1st July, 1989 alleged to have been executed by Des Raj Nagpal, obtained from the Court of Rent Controller are placed on the police file. Statement of petitioner would reveal that in his deposition he proved the copies of said documents as Exs. PW 1/A to PW 1/G with the help of original documents which he had brought. On a naked eye perusal of the said documents placed on police file it is evident that they are the copies of documents filed by the petitioner in eviction petition. On enquiry if the petitioner had lodged any report either of theft or missing of documents other than General Power of Attorney at any point of time, Mr. Singh has replied in negative. Taking note of said evidence, the petitioner hardly deserves to be admitted to anticipatory bail. Dismissed.

4. Petition dismissed.