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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 27th February, 2025

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CRL.M.C. 3425/2021

MOHAN LAL

A-301, Meghdoot Apartments, Plot -19,
Sector-7, Dwarka, Delhi - 110075

.....Petitioner

Through: Petitioner in person.

Versus

1. STATE OF G.N.C.T. OF DELHI
Through Chief Secretary, G.N.C.T. of Delhi,
5th Level, Delhi Secretariat,
Delhi – 110002.Respondent No.1.
2. Sandeep Aggarwal
son of Sh. Bal Kishan Aggarwal
IInd Floor, 70 Tagore Park,
Delhi – 110009.Respondent No.2.
3. Pankaj Kumar Rajan, Advocate,
Ch. No. 340 Civil Wing,
Tis Hazari Court Advocates Chambers,
Delhi – 110054.Respondent No.3.
Through: Mr. Nawal Kishore Jha, Ld. APP for
the State with SI Sanjeeta P.S.
Mukherjee Nagar.
Mr. Pankaj Kumar Ranjan, Advocate
for private Respondent.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)



1. Petitions under Section 482 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.' hereinafter) read with Article 227 of the *Constitution of India* has been filed to challenge the Order dated 04.09.2021 of learned ASJ upholding the Order of learned M.M. dated 15.12.2020 whereby the Complaint filed by the Petitioner under Section 200 Cr.P.C., has been dismissed.
2. **Briefly stated**, Respondent No.2, Mr. Pankaj Kumar Rajan filed a Complaint against his wife (who is the daughter of the Petitioner Mohan Lal) in which he also was impleaded, which was dismissed. The Order was challenged by way of a Revision Petition.
3. The Petitioner, Mohan Lal then filed a Complaint on the ground that there was tampering of record while the matter was pending before the Court of learned ASJ. In the affidavit of Sh. Pankaj Kumar Rajan, the word '*deponent*' was changed to Revisionist whereas the Paper book supplied to Sh. Mohan Lal had the affidavit mentioning the name of Pankaj Kumar Rajan as *deponent*.
4. Furthermore, certified copy of the impugned Order dated 24.11.2016 of learned M.M. had been filed on record, but the typed copy of the same was supplied to Sh. Mohan Lal running into two pages. Hence, he alleged that offence under Section 378 and 415 of the *Indian Penal Code, 1860* ('IPC' hereinafter) was committed.
5. The learned Magistrate in the Order dated 15.12.2020 observed that if at all there is any manipulation or tampering, then it is of the record before the learned ASJ and a separate Complaint before the



learned M.M was not maintainable. Moreover, in case of tampering, Complaint should have been filed under Section 340 Cr.P.C. and not under Section 378 IPC alleging theft. Furthermore, the record revealed that the Application under Section 340 Cr.P.C. was indeed filed before learned ASJ, which was dismissed after consideration. The said Order was challenged before High Court of Delhi wherein as well it was held that no perjury was committed of the Court record. This Court also observed that if the Paper Book supplied to the Petitioner was at variance with the Court record, that cannot amount to perjury of the Court record. The Petition so filed by Mohan Lal, in regard to Perjury, was accordingly dismissed by this Court.

6. The Complaint, with the aforesaid observations, was dismissed by learned M.M.

7. The Order of the learned M.M. dated 15.12.2020, was challenged before the learned Sessions Judge vide Crl.Rev.15/2021 which was also dismissed by the learned Special Judge *vide* his Order dated 04.09.2021 by observing that the findings of the learned M.M. in regard to there being no evidence made out for offense under Section 378/415 IPC was correct and did not merit any interference.

8. The present Petition under Section 482 Cr.P.C. has been filed to challenge the Order of the learned M.M dated 15.12.2020 and of ASJ dated 04.09.2021 on the following *grounds*:-

(i) that the learned M.M had recorded in the title of impugned Order that there was only one Respondent, which makes the



impugned Order improper.

- (ii) The arguments were heard on 19.12.2019 but the Order was passed after 363 days.
- (iii) That the accused No.2 had filed a Complaint against his wife (daughter of the Complainant). This statement in impugned Order is incorrect because the complaint was filed by Respondent No.2 and not by Respondent No.3.
- (iv) Learned M.M observed that the Complainant is the father of the accused No.2, when in fact he was the father-in-law of respondent No.2.
- (v) Learned M.M observed that the only grievance of the Petitioner was about certain tampering, when in fact his grievance also was that the typed copy of the correct Order was not supplied but the copy supplied was some forged papers that were filed in the Court and supplied to him.
- (vi) Learned Magistrate confined the consideration only to the Application under Section 340 Cr.P.C. when the alleged offences he had claimed was about the offence under Section 415 Cr.P.C.
- (vii) Section 195(1) Cr.P.C does not apply for the offences punishable under Sections 417,466, 468, 511 and 34 IPC that were committed by Respondent Nos.2 & 3.
- (viii) Even for the offences punishable under Section 465 and 471 IPC, the bar of Section 195(1) Cr.P.C was not applicable in



view of the judgment of the Apex Court in *M.L.Sethi vs. R.P.Kapur.*

- (ix) Learned M.M incorrectly observed that for the offence of cheating only the learned ASJ was competent; however, for taking the cognizance of the offence of cheating as per Cr.P.C., the Competent Court is that of the learned M.M.
- (x) Further the observations of the learned M.M that the record of the case was maintained by the Court of ASJ, also makes the impugned Order illegal since the record of decided Criminal Revision Petition No.3/15 was maintained in the Record Room and not in the Court of Additional Sessions Judge. For looking into the offences committed by private Respondents herein, the records could have been very well called from the Record Room.

9. It was thus, contended that the conclusions of the learned M.M were not supported by the evidence and are liable to be set aside. It is further asserted that the impugned Order of the learned M.M does not consider the averments made in the Complaint under Section 200 Cr.P.C., his pre-summoning statement on oath and the documents exhibited by him. It was prima facie established that he was cheated in the manner as claimed in the Complaint under Section 200 Cr.P.C., which could not have been rejected.

10. Further, Section 340 of Cr.P.C. does not apply to other documents i.e. the ones under reference. The offences involved in the



instant case had been committed by Respondent Nos.2 & 3 in a proceeding. Section 415 IPC and not Section 340 Cr.P.C. Was applicable to the facts as narrated in the Complaint.

11. Furthermore the learned Magistrate has not disbelieved the material available on record and therefore, the Order dismissing the Complaint is illegal. Reliance has been placed on Central Bureau of Investigation vs. M.Sivamani and Monica Bedi vs. State of A.P. Furthermore, the observations of the learned M.M that the Petitioner was not prejudiced is incorrect, and this was only an opinion of the learned ASJ and not a finding of the Trial Court. The exhibited documents together show that he was actually prejudiced by Respondent Nos.2 & 3 filing and supplying incorrect Order to the Petitioner in the Court of ASJ.

12. It is further asserted that the Order dated 04.09.2021 of learned ASJ in upholding the Order of learned M.M also suffers from various infirmities. In paragraph 2 of the impugned Order, the year of marriage of Respondent No.2 with his daughter Ms. Priyanka Agarwal is written as 2006 when in fact they got married in 2005 as is clearly stated in the Complaint.

13. Further, in the impugned Order it has been observed that the Petitioner and his daughter have been summoned, when in fact it was his wife who had been summoned along with him and not the daughter. The wrong relation between the Petitioner with Respondent No.2 has been mentioned in paragraph 9 of the impugned Order which



should have been based on true facts.

14. The reference to pages Nos. 16 and 17 is also made wrongly as these were non Orders which were not actually impugned Orders. These were wrongly attested by Respondent No.3 as true copy of actual impugned Order.

15. Furthermore, learned M.M had considered cheating and perjury as same offences, but in fact they are different offences. In the last sentence in paragraph 3 of the impugned Order, the version of the High Court has been referred to conclude that there was no case made out under Section 378/415 IPC which is wrong interpretation as the observations by the High Court were limited to offences under Section 340/195 Cr.P.C. In paragraph 13 while quoting para 10 of the Reply, learned ASJ has not looked into the alleged copy filed as well as supplied to the Petitioner nor the copy of the actual Order. Further, it is wrongly stated that incomplete true copy of the Order was supplied when it was in fact a forged Order that was supplied to him.

16. Learned ASJ was required to look into the incorrectness, impropriety and illegality if any in the impugned Order but instead he has tried to justify the actions of Respondent Nos.2 & 3. There are no findings in respect of the offence under Sections 415, 417,463,466,468,471 and 511 IPC. Furthermore, the cause list of date 04.09.2021 and Order Sheet dated 17.08.2021 reflects that matter was actually listed for arguments despite which the Petition had been disposed of. Furthermore, though there is a reference to four



judgments relied upon by the Petitioner, they have not been considered in the Order.

17. Moreover, the delay of 363 days in pronouncing the Order by the Magistrate after hearing the arguments has been sought to be justified on account of Covid-19 Pandemic, but he forgot that the said Orders did not prohibit the M.M from passing the Orders which have been reserved on 19.12.2019. Reliance has been placed on M.L.Sethi vs. R.P. Kapur, AIR 1967 SC 528 in respect of Section 211 IPC. It is, therefore, submitted that the impugned Order dated 04.09.2021 by learned ASJ and the Order dated 15.12.2020 of learned M.M are liable to be set aside.

18. Respondent No.2 has filed *written arguments* wherein all the averments made in the Petition have been denied. It is asserted that the Petitioner has not approached the Court with clean hands but has tried to mislead the Court. It is claimed by the Petitioner that he was not supplied the true copy of the Order dated 24.11.2014; rather non Order running into two pages was supplied, however, the Petitioner neither in the present Petition nor in the Complaint or in the Revision Petition stated when he got the knowledge of non supply of the true and correct Order dated 24.11.2014. Rather, the Petitioner from the very beginning was having the certified copy of the Order dated 24.11.2014. It is established from the Revision Petition filed by the Petitioner against the Order dated 24.11.2014 in CC No.87/1/14 wherein the Petitioner himself had filed the certified copy of the



Order dated 24.11.2014 in which the date has been mentioned as 02.01.2015. The claim of the Petitioner that he was not aware of the contents of the Order dated 24.11.2014 and that he was cheated is completely incorrect. It is asserted that a party cannot claim to be cheated when he himself was a party to the proceedings and it was possible for him to get the copy of the Order dated 24.11.2014. Furthermore, in case the Petitioner was having a deficient non Order copy of the Order dated 24.11.2014, he could have agitated this aspect before the Court concerned rather than filing a separate Petition claiming cheating and theft.

19. Furthermore, after the decision of the Revision Petition No.3/15, a similar complaint has been filed by the Petitioner against Respondent No.2 bearing *Misc.Crl.No.5182/16 titled Sandeep Aggarwal vs. Priyanka Aggarwal under Section 340(1) read with Section 195(1)(ii) Cr.P.C.* which has been dismissed on 26.11.2016. The Petitioner in the said Complaint had made similar allegations of forgery and interpolation at various places in various documents in Court record and that he had not been supplied with the true copy of the Order dated 24.11.2014. He also alleged that Respondent No.2 had done the criminal acts of cheating, forgery, criminal breach of trust in the Court record etc. The Court held that no such objections had been taken before the Court concerned. Further, Petitioner being well aware of the contents of the impugned Order challenged by way of captioned revision petition, no prejudice as such was shown to have



been caused. The remaining interpolations as noted above, were held to be mere typographical corrections made by the Respondent herein in the relevant documents though not made in the copy of the paper book sent to the Petitioner herein along with the notice of Revision Petition. It does not amount to commission of offence of forgery, cheating or attempt to cheat or criminal breach of trust. The Misc.Crl.No.5182/2016 was dismissed and the order had been upheld by the High Court *vide* its Order dated 27.09.2017 with the observation that the discrepancy pointed out do not amount to perjury or forgery in Court record. No court record appears to be tampered and there was no occasion to invoke Section 340 (1) read with Section 195(1)(ii) Cr.P.C.

20. It is submitted that the Criminal Complaint No.4612/2017 had been filed in respect of the same subject matter which was agitated in previous Complaint under Section 340 Cr.P.C. Supreme Court in *Pramatha Nath Taluqdar vs. Saroj Ranjan Sarkar*, AIR 1962 SC 876 had held that though there is no bar to filing of the second Complaint on the same facts, but it is to be entertained only in exceptional circumstances e.g. where the previous Order was passed on an incomplete record or on a misunderstanding of the nature of the Complaint or if it was manifestly absurd, unjust or foolish or where new facts which could not with reasonable diligence have been brought on record in the previous proceedings, have been adduced.

21. Reliance is also placed on *Samta Naidu & Anr vs. State of*



Madhya Pradesh and Anr, Crl.Appeal Nos.367-368/2020 wherein similar observations were made. It was further observed that the second Complaint would not be maintainable where the earlier complaint had been disposed of on full consideration of the case of the complainant on merits.

22. Essentially the facts which form the basis of the Complaint under Section 340 Cr.P.C have been re-agitated in the present Complaint which has been rightly dismissed by the learned ASJ. It is further submitted that neither is the offence under Section 378 IPC made out nor was the offence of cheating made out. It is, therefore, submitted that the present Petition is without merit and is liable to be dismissed.

23. **Submissions heard and record perused.**

24. Essentially, the basic contentions of the Petitioner in its Petition No.4612/2017 was that in the earlier Order dated 24.11.2014 while dismissing his earlier Complaint, had made certain observations which were factually incorrect like the relationship between the Petitioner and his wife had not been correctly disclosed. The Petitioner has also pointed out some errors in describing the Petitioner as the father of Respondent No.2 and incorrectly giving the date of marriage of his daughter to Respondent No.2 and such like errors, but in case there were such errors in the impugned Order, the appropriate remedy was to seek the corrections by moving an Application before the learned MM. It does not give him any right to file the present



Complaint No.4612/2017, alleging manipulation.

25. The Complainant has claimed **firstly**, that the Revision Petition was filed by Respondent No.2, in which he had tampered the record. Essentially the claim of such tampering was that the word 'dependent' had been changed as 'Revisionist' in the affidavit and the pleadings filed before the learned ASJ, but the Paper Book supplied to him, it had word 'dependent' stated. It was further asserted that the typed copy of the impugned Order dated 24.11.2014 supplied to him was running in two pages and, therefore, the offence under Section 378 and 415 IPC was committed.

26. It is quite evident from the averments made in the Petition that there was no tampering in the records filed before the Court which originally contained the word 'Revisionist'. The copy supplied to the Petitioner may not have been corrected, but on this ground it cannot be said that the Court records had been tampered or forged. No such forgery or tampering has been done after the documents have been filed before the learned ASJ as has been rightly concluded that no offence of forgery, manipulation or tampering has been established.

27. The **second averment** made by the Petitioner was that by supplying him typed copy of the impugned Order dated 24.11.2014 in two pages, an endeavour has been made by the Respondent No.2 to cheat the Petitioner. However, as has been detailed by Ld. ASJ in the impugned Order that the Petitioner was a party to the Petition in which the Order dated 24.11.2014 was made and he already had a



certified copy of the same which was filed by the Petitioner himself in other proceedings.

28. Firstly, merely because the true typed copy of the Order was sent to the Petitioner, cannot *ipso facto* lead to any conclusion that there was any cheating committed. Furthermore, for an offence of cheating to be made, there has to be deception of a person, which is not in the present case as Petitioner already had the certified copy of the impugned Order. There was neither any fraudulence or dishonesty on the part of Respondent No.2 in giving the typed copy which could have caused any harm or damage to the Petitioner. Learned ASJ, therefore, rightly concluded that no offence of cheating was made out.

29. Likewise, in order for an *offence of theft* to be committed, it had to be shown that some property has been taken up of the possession of an individual without his consent or permission. Merely because the Paper Book provided to the Petitioner was having some typographical errors when compared to those filed in the Court, or was supplied a typed copy of Order instead of certified Copy of Order, it cannot be said that there is any document, property or page taken out of the records of the learned Trial Court. The learned ASJ, therefore, rightly observed that there is no offence of theft made out.

30. In the end, it may be pertinent to observe that the Petitioner has been filing one Petition after the other on similar allegations of perjury, manipulation of records, theft, cheating, etc. one after the other which is nothing but actually frivolous and vexatious. However,



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considering he that he is the father of the daughter against whom Respondent No.2 has filed litigations, this Court refrains itself from imposing any cost while dismissing the Petition.

31. In the light of the aforesaid discussion, the present Petition is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 27, 2025

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