



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

% *Reserved on: 18th February, 2025*
Pronounced on: 27th May, 2025

+ **CRL.REV.P. 240/2012 & CRL.M.A. 5447/2012 (stay)**

1. **Meenu Thukral**
W/o Late Ashwani Thural
R/o North 34, Riviera Apartments,
46 Mall Road, Delhi 110054 ...Petitioner No. 1
2. **Rajiv Gupta**
S/o Late Shri G.B. Gupta
R/o North 5, Riviera Apartments,
45, Mall Road, Delhi-110054Petitioner No. 2
3. **Gagan Marwah**
S/o Late Shri Krishan Lal
R/o North 28, Riviera Apartments,
45 Mall Road, Delhi-110054Petitioner No. 3

Through: Ms. Rebecca M. John, Senior
Advocate with Ms. Anushika Baruah
and Mr. Nilanjan Dey, Advocates.

versus

1. STATERespondent No.1
2. **SANJAY CHIRIPAL**
S/o R.K. Chiripal
R/o North 1, Riviera Apartments,
45 Mall Road, Delhi-110054 ...Respondent No. 2

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Prabhaskar, DIU/North.
Mr. Bakul Jain, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. Criminal Revision Petition under Section 397/401 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) has been filed on behalf of the Petitioners against the Order dated 08.11.2011 directing the Charges to be framed under Section 120-B/420/511/468/471 Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) and Order dated 06.02.2012 *vide* which the Charges were accordingly framed.
2. ***Facts in brief*** are that the Petitioners i.e. Ms. Meenu Thukral, Mr. Rajiv Gupta and Mr. Gagan Marwah, were the Vice President, Secretary and the Joint Secretary respectively of the Society by the name of Riviera Apartments, Owners Co-operative Housing Society Limited (*hereinafter referred to as 'the Society'*) for the period 2007-2008.
3. On 28.06.2003, Mr. Sanjay Chiripal, the Complainant purchased a flat bearing Number 'North One' in the Society. Mr. R.K. Chiripal, his father was the original member and was owner of a separate flat.
4. On 21.11.2004, the Annual General Meeting of the Society was convened, which was attended by Mr. R.K. Chiripal, father of the Complainant. He proposed voluntary donation and over and above the Transfer Fee of Rs.10,000/- for carrying out the major repairs in the Society. A Resolution was unanimously passed for the same.
5. On 05.12.2004, the Complainant for the first time, submitted the original Share Certificate of the Flat for its transfer in his name, *vide* Letter dated 05.12.2004.
6. On 06.12.2004, the Complainant issued two cheques, one dated 05.12.2004 in the sum of Rs.10,000/-, drawn on the Canara Bank, towards Transfer charges. He also issued another cheque in the sum of Rs.21,000/-



towards voluntary donation in favour of the Society. Two Receipts bearing No. 1119 and 1120 dated 06.12.2004, were issued by the Society under the signatures of the then Manager. The Share Certificate was transferred in favour of the Complainant on 05.12.2004 itself i.e. even before he handed over the cheques to the Society. The cheques were encashed on 08.12.2004.

7. It is further averred that the Complainant carried out unauthorized construction in his flat, which was opposed by the office bearers and other members of the Society including the Petitioners. Eventually, on 10.05.2006, the Municipal Corporation of Delhi (*for short 'MCD'*) demolished the unauthorized construction. Since then, the Complainant is bearing a grudge against the Petitioners and other office bearers of the Society and he began a slander campaign against them.

8. On 26.09.2006, the Complainant for the first time issued a Legal Notice to the Society asking for refund of Rs.31,000/- given to the Society towards Share Transfer and donation. The Complainant filed a case before the *District Consumer Disputes Redressal Forum* against the Society, on 15.11.2006 seeking refund of Rs.31,000/- alleging that he was forced to make the payment of the said amount under duress and pressure.

9. A *Reply was filed by the Society* along with the copy of the two Receipts towards the payment made by the Complainant. On 03.04.2007, the District Consumer Disputes Redressal Forum passed an Order in favour of the Complainant directing the Society to refund Rs.31,000/- to the Complainant.

10. The Society preferred an *Appeal against the said Order before the State Commission*. The Society allegedly again filed the copies of the two



Receipts issued in favour of the Complainant but this time, it was alleged that the said Receipts bore the forged signatures of the Complainant, who claimed that the Petitioners had conspired with each other in order to connive and represent before the State Commission that the amounts had been deposited voluntary and without any protest by the Complainant. The amount so collected by the Society was for Building Development Fund, Transfer Charges and voluntary donations , etc.

11. The Complainant thereafter, made various Complaints to the Police Official alleging that the two Receipts filed by the Society before the State Commission, were forged and did not bear his signatures.

12. He also moved an *Application under Section 340 Cr.P.C. against the Society but it was dismissed by the State Commission vide Order dated 25.09.2007*. In the interim, the Appeal preferred by the Society in the State Commission, was partly allowed *vide Order dated 05.12.2008* and the Society was directed to refund Rs.21,000/- out of Rs.31,000/-.

13. The Complainant then filed an Application under Section 156(3) Cr.P.C. dated 17.12.2007 alleging that the Petitioners and other office bearers of the Society had committed forgery, cheating and criminal intimidation.

14. On the directions of the learned Metropolitan Magistrate, FIR No. 53/2008 under Section 384/420/467/468/471/506/120-B/34 IPC was registered at Police Station Timarpur.

15. *The Charge Sheet was accordingly filed against the Petitioners and other co-accused on 27.11.2008*. The specimen handwritings of the Petitioners, was sent for forensic examination and the Government



Examiner in his Report dated 14.05.2008 observed that “*it was not possible to express any opinion regarding the authorship of the red enclosed signatures marked Q1 and Q2 in comparison with the specimen writings.*”

The Supplementary Charge Sheet was filed on 02.06.2009, on the basis of an illegal and inadmissible Statement dated 27.05.2009 of Mr. P.N. Singh, who himself was an Accused in this case.

16. The learned Trial Court *vide* its Order dated 08.11.2011 held that there was sufficient evidence on record for framing of the Charges and consequently the Charges dated 06.03.2012 under Section 120-B/420/511 read with Section 120-B/468 read with Section 120-B/471 read with Section 120-B IPC were framed. The formal Charges were framed on 06.02.2012.

17. *The Order on Charge has been challenged by way of the present Revision Petition* on the ground that they are contrary to facts and law on record and the Order is based on conjectures and surmises. The Petitioner No. 1 was the Vice President, the Petitioner No. 2 was the Secretary and the Petitioner No. 3 was the Joint Secretary of the Co-operative Group Housing Society, with whom the Complainant had a long standing dispute. The Charge-Sheet does not specify as to how and in what manner, the Petitioners could have benefitted from the alleged forgery of the Receipts in question. The Complainant has failed to specify as to how the Petitioners can be held liable for the offence of forgery and cheating.

18. The Petitioners have been prosecuted primarily on the ground that they were Office bearers of the Society. Such allegations are preposterous, absurd and motivated. The Order on Charge dated 08.11.2011 does not discuss the alleged specific roles attributable to the Petitioners, to constitute



the stated offences. The Charges framed against the Petitioners, are vague and ambiguous and the proceedings are liable to be quashed.

19. It is further contended that the Petitioners and other Office bearers, who were present at the AGM held on 21.11.2001 wherein the proposal was passed regarding the voluntary donation in favour of the Society on transfer of flat, which according to the learned Metropolitan Magistrate, was indicative of their role in conspiracy.

20. No AGM in fact, was held on 21.11.2001. It has not been appreciated that the AGM was held on 21.11.2004, which was attended by Mr. R.K. Chiripal, father of the Complainant, who himself proposed that a voluntary donation should be given to carry out major repairs in the Society.

21. Furthermore, the learned Metropolitan Magistrate has erred in holding all the Office bearers to be collectively responsible for having custody of the disputed Receipts. It has not been specified in whose physical possession, the Receipts had been kept.

22. Further, the learned Trial Court failed to appreciate that the CFSL Report does not give any adverse finding against the Petitioners. It does not show that the alleged forgery was committed by the Petitioners.

23. Moreover, the Complainant had raised the Objection towards payment of Rs.31,000/- after the gap of more than one and a half year, out of sheer vengeance in order to take revenge of the demolition of the unauthorised construction carried out by him in his flat.

24. It has also not been appreciated that the payments were made by way of cheque and nothing prevented by the Complainant from stopping the payment of cheques by giving instructions in his bank in case he felt that



any threat or pressure had been exerted on him. The Share Certificates were transferred in the name of the Complainant on 05.12.2004 itself while the cheques were submitted on the next date i.e. 06.12.2004.

25. The Petitioners had no occasion to forge the Receipts as the payment had been made voluntarily pursuant to the proposal made by the father in the AGM dated 21.11.2004.

26. Reliance has been placed on the Judgment of the Apex Court in Smt. Manju Gupta vs. Lt Col M.S. Paintal, 1982 SCC 412 where it was categorically held that the Office bearers of the Society cannot be criminally held liable for the offences of forgery of rent receipts without specific evidence of their complicity in the crime.

27. The Statement of the co-accused, namely, P.N. Singh, recorded in the Supplementary Charge-Sheet while correctly disregarded by the learned Metropolitan Magistrate, but he still proceeded to frame charges on the assumption that the Petitioners were Office bearers of the Society and were, therefore, custodians of the Receipts in question. Reliance has also been placed on Union of India vs. Prafulla Kumar Samal, (1979) 3 SCC 4 wherein it was observed that by and large if two views are possible while giving rise to some suspicion but not grave suspicion against the Accused, he was well within his right to be discharged.

28. Similar observations were made in Dilawar Balu Kurane vs. State of Maharashtra, (2002) SCC (Cr.) 310. Reliance is also placed on Surendra Nath Pandey v. State of Bihar (2020) 18 SCC 730 to state that when allegations are bald and omnibus involving allegations of cheating then the proceeding is liable to be quashed. Further reliance is placed on Sheila



Sebastian v. R. Jawaharaj (2018) 7 SCC 581 to submit that a charge of forgery cannot be imposed on a person who is not the maker of the false documents in question.

29. It is submitted that in view of the aforesaid grounds taken by the Petitioners, the impugned Order on Charge dated 08.11.2011 and the Charges so framed on 06.02.2012 by the learned Metropolitan Magistrate, be set-aside.

30. ***The Respondent No. 2/Complainant in his Written Submissions***, has asserted that he had applied for transfer of Flat in his name in the Society on 17.06.2004, which was kept pending till 05.12.2004, due to illegal demand of the money and the transfer of the membership/flat. As per the Delhi Co-operative Societies Act, 2003 and the Rules 2007, there is a time period of one month, to dispose of the Application for transfer. No Letter was issued after 17.06.2004 till 05.02.2004 by the Society requiring any further information or documents from him for transfer of the flat.

31. The Agenda Notice dated 01.11.2004 for AGM to be held on 21.11.2004 was issued by the then Secretary/Petitioner No. 2 wherein one of the Agenda was to discuss the amount of the donation to be taken from members at the time of transfer of flat. This Agenda clearly shows *mala Fide* on the part of the Accused as to why the matter of transfer of Flat was kept pending.

32. The Accused Nos. 1, 2, 3 and 5 were President, Vice President, Secretary and Joint Secretary of the Society from 21.11.2004 till 20.05.2007 and thereafter, remained Officers of the Society till 21.04.2008. Accused No. 7, namely, T.R. Kapoor was made a permanent Special Invitee in AGM



dated 21.11.2004, who participated in the Managing Committee Meeting and remained special Invitee till 20.05.2007. He was made member of the Share Transfer Sub-Committee/membership screening Sub-Committee on 19.02.2006 and remained so till 18.03.2007. He was playing a major role in the affairs of the Society. The Accused No. 6 namely, P.N. Singh was the Manager of the Society from 01.04.2006 till August, 2012.

33. It is further asserted that all the Accused persons were the custodian of the records of the Society and were jointly and severally responsible for any illegal act committed by the Society. It is nowhere recorded in the Minutes dated 21.11.2004 of Annual General Body that father of the Complainant, had proposed voluntary donation. The Resolution for charging voluntary donation was passed in the AGM dated 21.11.2004 in the presence of the Accused persons.

34. An Inspection Report dated 04.04.2007 under Section 61 of the *Delhi Cooperative Societies Act, 2003* was submitted wherein it was noted that the Society was charging the illegal Entry Fee directly or in the form of Building Development Fund and transfer of Shares was not taking place unless Entry Fee was received by the Society. Accused No. 1 had proposed voluntary donation against all norms and that an amount of Rs.8,98,500/- had been collected at the time of transfer of Flats since 1999 till 31.03.2004.

35. The Complainant asserted that he was forced to pay under coercion and threat, a sum of Rs.31,000/- for transfer of Flat in his name, which he gave *vide* two Receipts numbers 1119 and 1120. He explained that the two Receipts filed before the State Commission, had his forged signatures, which had been intentionally done by the Petitioners.



36. **The State Commission directed the refund of a sum of Rs.21,000/.**
37. Accused No. 6, P.N. Singh, Manager of the Society from April 2006 till August 2012, in his Statement under Section 161 Cr.P.C. recorded on 27.05.2009 as part of the Supplementary Charge-Sheet, specifically stated that the transfer of flat of the Respondent No. 2, was kept pending on the instructions of Accused No. 7 that unless the money was paid as per the desire of the Accused person, Share shall not be transferred in the name of the Complainant. The detail of Representations dated 17.11.2008 of the Accused No. 6, are well corroborated in Appeal filed by the Society before the State Commission.
38. *In the end*, it is asserted that the Society was the beneficiary by way of success of Appeal filed by him, through the Accused persons/Revisionists before the State Commission by forging signatures of Respondent No.2 on two Receipts and using them as originals in a criminal conspiracy hatched by all the Accused persons, to cheat, deceive and misguide the State Commission and the Complainant.
39. It is submitted that there is no infirmity in the impugned Order and the Revision is liable to be dismissed.
- 40. Submissions heard and Record perused.**
41. It is not in dispute that Mr. R.K. Chiripal, father of the Complainant, was the member and holding a flat in the Society in which the Complainant also sought a Flat in his name, which was eventually allotted and transferred in his name on 05.12.2004. The only dispute which has emerged, is in regard to the payment of Rs.21,000/- as donation.



42. In this context, it would be pertinent to refer to the AGM held on 21.11.2004, which was attended by the members of the Society, including the Office bearers as well as Mr. R.K. Chiripal, father of the Complainant.

43. Complainant himself has stated that one of the Agenda for the AGM was to discuss about the amount of donation to be taken from the members at the time of transfer of Flats for development of Society. The Copy of the Minutes of AGM, has been annexed wherein it has been recorded that it was Mr. R.K. Chiripal, father of the Complainant, who had proposed to take donation at the time of transfer of flat, though he subsequently retraced by stating that it may be taken as a decision of all the members of the Society. It is, therefore, evident that it was a decision taken by the members and the Office bearers on 21.11.2004 of which Mr. R.K. Chiripal, father of the Complainant, was also a party and it was decided that the donation amount be taken at the time of transfer of the Flat for the purpose of upkeep of the buildings of the Society.

44. Consequent to this AGM, when the Applicant applied on 05.12.2004 for Share Transfer Certificate in his name, the Share Transfer Certificate was issued on the same date. The Complainant also gave two cheques, one of Rs.10,000/- as Transfer charges and Rs.21,000/- towards the voluntary donation. The two cheques were given pursuant to the Resolution passed in AGM on 21.11.2004. There can be no ill will or ill motive imputed to any of the Office bearers.

45. The two Receipts, were admittedly issued in favour of the Complainant, in acknowledgement of the Cheques, which got filed before



the District Consumer Forum. The District Consumer Forum *vide* Order dated 03.04.2007 directed the Society for refund of Rs.31,000/-.

46. The actual problems started when an Appeal was preferred by the Petitioners in the State Commission, challenging the Order of District Consumer Redressal Forum dated 03.04.2007. Ultimately, the Petitioners succeeded in so much as Rs.21,000/- towards voluntary donations, was directed to be refunded along with the cost of litigation and Rs.4,000/- as compensation and Rs.2,000/- as litigation expenses.

47. Despite having succeeded in State Commission, the grievance of the Complainant is that the copy of the two Receipts that of filed in the State Commission, did not bear his signatures and he claimed that they were forged and fabricated. The specimen signatures were sent to FSL and Report dated 14.05.2008 was received, which categorically gave a finding that the signatures on the Receipt, were not of the Complainant but it was unable to state as who had forged the signatures.

48. In this context, it is pertinent to note that the payment of Rs.21,000/- had never been disputed and in fact, the filing of original Receipts before the District Consumer Redressal Forum, has also been accepted. In the Supplementary Statement of Mr. P.N. Singh recorded by the Investigating Officer, he had explained that at a Meeting of the Office bearers he had overheard, Accused Nos. 5 and 7, conspiring to somehow manipulate the carbon copy of the Receipts available with them and they put the forged signatures to be submitted before the State Commission, to somehow win the case.



49. This entire story, which has been cooked by the Prosecution, does not inspire any confidence for the simple reason that Mr. P.N. Singh was himself one of the Accused and his Supplementary Statement as recorded, was not admissible in law. It is evident from his Statement that he has tried to exculpate himself by putting all the blame on the other Accused persons.

50. It does not meet any reason for the Petitioners to have forged any Receipt when the payments were documented through cheques and was admitted by the Complainant. Where was the need or the occasion to forge the signatures of the Complainant on the two Receipts especially when the original Receipts, were filed before the District Consumer Redressal Forum and were found to be genuine.

51. It is evident that *firstly*, these alleged Receipts were not found to be forged by the Petitioners, as the FSL Report nowhere inculpated any of the Petitioners. *Secondly*, there was no undue advantage that was to accrue to the Petitioners by forging carbon copy of the Receipts, admittedly given to the Complainant acknowledgment of her two cheques given by him.

52. It is evident that neither was there any forgery done by the Petitioners punishable under Section 468 IPC nor did they cheat the Complainant and no offence under Section 420 IPC is made out. Pertinently, no offence under Section 471 IPC is also made out as there was no intent to use a forged document as genuine.

53. In this context, reference may also be made to Section 95 IPC, which provides - *Act causing slight harm*. It is stated therein that nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, *if that harm is so slight that no*



person of ordinary sense and temper would complain of such harm. In the present case, there is absolutely no unlawful gain to accrue in favour of the Petitioners and there was absolutely no harm, which could have been caused to the Complainants.

54. In fact, all the facts were duly admitted and were not in dispute. The decision was taken by the AGM, to seek donations for upkeep of the Society, which may have been upset subsequently, but that does not mean that it was intended for any unlawful and illegal gain.

55. The learned Metropolitan Magistrate, therefore, fell in error in holding that *prima facie* Charges under Section 120-B/468/471/420 IPC were made out. The impugned Order of learned Metropolitan Magistrate is hereby set-aside and the Revision Petition is hereby allowed.

56. The Criminal Revision Petition is disposed of accordingly along with the pending Application(s).

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 27, 2025/RS