



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

% ***Pronounced on: 30th June, 2025***

+ **CRL.M.C. 4686/2018**

SUSHIL KUMAR SAXENA

S/o Sh. Ramesh Chandra Saxena

R/o HD-06, Sector-135,

NOIDA, U.P. - 201304

.....Petitioner

Through: Mr. Manish Kumar & Mr. Ansh
Arora, Advocates.

versus

1. STATE (NCT OF DELHI)

2. SH. ANIL NARAIN,

S/o Sh. Jai Narain

R/o 87, Panchsheel Park

New Delhi-110017

3. SH. SANJAY GUPTA

R/o B-291, Sector-26,

NOIDA (U.P.)

4. SH. JAGDEEP GUPTA

Partner in M/s Alok & Co.

234, D.D.A. Office Complex

Cycle Market, Jhandewalan Extension

New Delhi-110055.

.....Respondents

Through: Mr. Shoaib Haider, APP for State
with SI Sanjeet Rathore.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. Criminal Petition under Section 482 read with Section 483 Cr.P.C. has been filed by the Petitioner (*Complainant*) for setting aside Order dated 01.05.2018, whereby learned Special Judge (PC Act), CBI has upheld the pre-summoning Order dated 27.11.2017, whereby Respondent Nos.2 to 4 have been summoned only for the offences under **Sections 467/471 IPC**.
2. The Petitioner/Sushil Kumar Saxena filed a Complaint under S. 156(3) for the summoning of the Respondents for the offences under **Section 420/468/471/34/120B IPC and under Sections 166A/167 IPC against Respondent No.4, Jagdeep Gupta**. The averments therein were that Petitioner/Sushil Kumar Saxena, and Respondent No.2 /Anil Narain were the founder Directors of the Company, i.e. Innovin Professional Pvt. Ltd. Subsequently, Respondent No.3/Sanjay Gupta was inducted as Director in the year 2009, but he resigned on 15.06.2011 and the information was sent to Registrar of Companies (ROC) by filing FORM 32.
3. Subsequently on 20.06.2011, Petitioner decided to resign from the Company and accordingly, sent his Resignation Letter by post on the Company's registered office address at 104, Deepali Building, 92, Nehru Place, New Delhi, which was returned undelivered with the remarks '*refused*'. Petitioner then sent his resignation to ROC and e-mailed it to all the share holders of the Company as well.
4. Respondent No.2/Anil Narain, Director also wrote a Letter dated 12.08.2011 to ROC regarding impounding of the Passport of the Complainant/Sushil Kumar Saxena owing to his purported resignation from the Company. ROC also sent a Reply to this letter.



5. The Complainant asserted that on 10.03.2015 when he visited the website of ROC, he was shocked to find out that the Company was reflecting the names of two Directors, namely himself and Anil Narain (Respondent No.2). He further came to know that some Board Resolutions were still being filed by Anil Narain (Respondent No.2) along with other financial information, to ROC under his forged signatures. He thus, claimed that both Anil Narain (Respondent No.2) as well as Sanjay Gupta (Respondent No.3) were *committing forgery for the purpose of cheating*.

6. The Complainant further alleged that all the documents including Board Resolutions, which authorised the Complainant to sign the Balance Sheets and other Financial Forms and Returns and to file them with ROC, had been *fraudulently fabricated*. Both Respondent Nos.2 and 3, thus, committed the offence of fabrication of financial documents and filing them with ROC and thereby committed offences under **Section 420/468/471/34/120B IPC**.

7. It is further asserted that Anil Narain/Respondent No.2 also opened a Current Account No. 0390201011155 with Canara Bank, New Delhi on 19.10.2009, in the name of the Company by forging the signatures of the Complainant. Further, some illegal transactions were carried out after which the Account was closed on 08.03.2011. It is claimed that this Account had been opened with intent to cheat. The role of Canara Bank officials and statutory Auditors of Company M/s Alok & Company also need to be investigated as without their connivance, these acts could not have been done.



8. It is further asserted that both, Anil Narain (Respondent No.2) & Sanjay Gupta (Respondent No.3), are involved in a *criminal conspiracy with common intent to harass the Petitioner / Complainant*. They have violated various provisions of the Companies Act, 1956, aside from committing offences under IPC. Both the accused persons in connivance with Accused No. 4/Jagdeep Gupta committed forgery of various documents including Board resolutions, financial statements by way of forging signatures of the Petitioner.

9. Hence, registration of FIR under *Sections 420/468/471/34/120B IPC* was sought to be registered against them and under *Sections 166A/167 IPC* against Respondent No.4, Jagdeep Gupta.

10. As per pre-Summoning evidence, the Petitioner examined himself as **CW-1 in support of his assertions**. CW-2 R. K. Saini, Senior Technical Assistant, Office of Registrar of Companies is a summoned witness who deposed about the resignation letter dated 15.06.2011 of MR. Sanjay Gupta along with form 32 as well as form 18, form 20B with annual income for 13.06.2011, form MGT 14 with resolution dated 28.07.2014, and form MGT 14 with resolution dated 30.08.2014.

11. Learned MM in his Order of summoning dated 27.11.2017, considered the contentions of the Complainant in the light of evidence led by him and observed that *no prima facie case was made out against Sanjay Gupta (Respondent No.3) and Jagdeep Gupta (Respondent No.4), but the Ld. MM directed Anil Narain (Respondent No.2) to be summoned for offences under Sections 467/471 IPC*.



12. The Complainant **filed Crl. Revision No.87/2018** before the Learned Special Judge (PC Act), CBI, New Delhi to challenge the Summoning Order, but *the same was dismissed vide Order dated 01.05.2018 and Order of learned MM was upheld.*

13. Aggrieved by the non-summoning of *Sanjay Gupta (Respondent No.3) and Jagdeep Gupta (Respondent No.4) and summoning of Anil Narain (Respondent No.2) only for offences under Sections 467/471 IPC, present petition has been preferred by the Petitioner/Complainant.*

14. The **grounds of challenge** are that it has not been appreciated that despite resignation of Sanjay Gupta, Respondent No.3 his signatures appeared on the Board Resolution dated 30.08.2014, as recorded in the Minutes of Board Meeting.

15. Not only this, despite resignation of the Petitioner on 20.06.2011, all the Documents, Balance Sheets, Director's Report, Minutes, etc. contained his forged signatures since 2011 to 2014. Furthermore, all these documents have been duly certified by the Statutory Auditor Jagdeep Gupta/Respondent No.4, partner in Company *M/s Alok & Company*, under his signatures, which was his statutory obligation under the Companies Act, 1956.

16. It all gives reasonable suspicion about connivance of Sanjay Gupta (Respondent No.3) and Jagdeep Gupta (Respondent No.4) with Anil Narain (Respondent No.2) and as such, they were also required to be necessarily summoned.

17. It is further claimed that Sanjay Gupta, Respondent No.3 had forged the date on Resignation Letter as 15.06.2011, which is evident even from a naked eye. The Resignation Letter being forged is also evident from the fact



that the address of the Company is written as S-87, Panchsheel Park, New Delhi, while the actual address was 104, Deepali Building, 92, Nehru Place, New Delhi.

18. Having realized that he has mentioned wrong address on the Resignation Letter, a Special Board Resolution dated 14.06.2011 was forged by Anil Narain and Sanjay Gupta even though no such meeting was held on the said date. This Board Resolution was filed by Respondent No.3 with the ROC under the Certificate of Jagdeep Gupta, Respondent No.4, partner of Auditors Firm *M/s Alok & Company* for changing the registered address of the Company, somewhere on 20/21.06.2011, i.e. after the resignation of Petitioner was submitted on 20.06.2011.

19. It is asserted that no Notice of the Board Meeting had been served upon the Petitioner as he had already resigned only on 20.06.2011. Had there been any such Board Meeting, the Notice would have been served upon the Petitioner as well.

20. It is contended the learned ASJ has not appreciated that the Balance Sheet of the year 2010-2011 before the ROC was a fabricated document, as it must even have been prepared sometime in September, 2011, as it had the changed address of the Company of S-87, Panchsheel Park, New Delhi, which was changed after 14.06.2011. It is further asserted that Balance Sheet was signed by Anil Narain (Respondent No.2) and Sanjay Gupta (Respondent No.3) in connivance with Jagdeep Gupta (Respondent No.4), who being the auditor, despite being fully aware about Sanjay Gupta, Respondent No.3 having already resigned from the Company. Furthermore, the documents and other associated Forms had been ante-dated as



13.05.2011 and false documents for General Board Meeting dated 13.06.2011, were forged and fabricated.

21. It is further claimed that key responsibility of the Statutory Auditors is to inform the Management. However, Jagdeep Gupta, Respondent No.4 has been participating in forging and fabricating of the documents. It is asserted that FORM-23AC along with Balance Sheet for the year 2011-12, was filed in the ROC by Anil Narain, Respondent No.2 and Jagdeep Gupta Respondent No.4 by forging signatures of the Petitioner and by reflecting him as one of the Directors of the Company. He had already resigned in the year 2011, after which he never attended any Board Meeting of the Company. All these documents have been forged and fabricated and submitted in the ROC under the verification of Jagdeep Gupta, Respondent No.4. It is further contended that Respondents had also forged his signatures on the Notices dated 28.07.2014 and 30.08.2014 and the Board Resolutions of the year 2012-13 and 2013-14.

22. It is therefore, submitted that the impugned Order be set aside and Anil Narain, Respondent No.2 be also summoned under Sections 420/468/120B/ 34 IPC, while Sanjay Gupta (Respondent No.3) & Jagdeep Gupta, Respondent No.4 (who have not been summoned for any of the offences) be summoned for all the offences under S. 420/467/468/471/120B/34 IPC.

23. ***Status report has been filed by the State***, wherein it is submitted that Complaint dated 21.03.2015 was received vide DD No.30B by the Petitioner against the Respondents. Enquiry was conducted and legal opinion was



sought from Prosecution Branch and it was opined that no cognizable offence was made out in the circumstances.

24. *Sanjay Gupta, Respondent No.3 and Jagdeep Gupta, Respondent No.4* in their respective Replies to the Petition have asserted that there is no infirmity in the impugned Order dated 01.05.2018 and the Petition is liable to be dismissed.

25. It is submitted that the present Petition amounts to second Writ Petition which is specifically barred under Section 397 Cr.P.C. Even though powers under Section 482 Cr.P.C. are not taken away, but is not to be exercised in a routine manner and must be used only to prevent miscarriage of justice and abuse of process of law or when there is non-compliance with mandatory provisions of law. No such ground is made out in the Petition and no interfere is merited in the impugned Order.

26. Reliance has been placed on *Rajan Kumar Machananda vs. State of Karnataka*, 1990 SUPP (1) SCC 132 and *Surender Kumar Jain vs. State & Anr.*, 2012 SCC OnLine Del 571.

27. It is asserted that present Petition is based on various bold self-destructive allegations without any basis.

28. The *first contention* raised by the Petitioner is that resignation of Sanjay Gupta, Respondent No.3 has been forged by him along with Anil Narain, Respondent No.2 to prevent the Petitioner from resigning from the Company and a prior date was written on the Resignation Letter of Sanjay Gupta, and Respondent No.3 after the resignation was submitted by the Petitioner. Despite his resignation, Sanjay Gupta, Respondent No.3 did not act upon the same and continued to work with the Company. It is submitted



Sanjay Gupta, Respondent No.3 had resigned on 15.06.2011, as indicated on his Resignation Letter and this information was even sent to ROC vide FORM 32. The Petitioner had submitted his resignation on 20.06.2011, which is after the resignation of Sanjay Gupta, Respondent No.3. It is asserted that the date on his Resignation Letter has been forged only after the resignation of the Petitioner from the Company.

29. However, Petitioner has admitted that resignation of Sanjay Gupta/Respondent No.3 was uploaded on the website of ROC on 16.06.2011, which falsifies his assertions.

30. *Second contention of the Petitioner to establish the forgery on the Resignation Letter of Respondent No.3* is that it contained the address of S-87, Panchsheel Park, New Delhi instead of actual address of 104, Deepali Building, 92, Nehru Place, New Delhi. It is explained that since the year 2009, the address of the Company was same as indicated on the Resignation Letter dated 15.06.2011, which was the correspondence address of the Company, which was the address mentioned even in the Appointment Letter of Sanjay Gupta (Respondent No.3).

31. It is submitted that learned ASJ has rightly rejected this contention vide her impugned Order dated 01.05.2018, it is asserted that there is no specific allegation in respect of the aforesaid Complaint dated 21.03.2015 filed by the Petitioner before SHO, Malviya Nagar against Anil Narain (Respondent No.2) and Sanjay Gupta (Respondent No.3) or in the Complaint dated 28.07.2015 filed by the Petitioner under Section 156(3) Cr.P.C.



32. **Third contention of the Petitioner** is that he resigned on 20.06.2011 and that resignation was sent to Company through post and to Anil Narain Respondent No.2 and Sanjay Gupta Respondent No.3 through e-mail dated 27.07.2011. Despite this, he found that he was still being continuing as Director of the Company on website of ROC.

33. It is further submitted that pertinently, Petitioner had sent e-mail dated 27.07.2011 to Anil Narain Respondent No.2 and Sanjay Gupta Respondent No.3 as well as share holders of the Company. The envelope containing the Resignation Letter, was sent on the same address only to Anil Narain Respondent No.2 and not to Sanjay Gupta Respondent No.3, making it apparent that Petitioner was aware of the fact that Sanjay Gupta Respondent No.3 had already resigned on 15.06.2011 and that Petitioner and Anil Narain Respondent No.2 were the only Directors left in regard to resignation by e-mail dated 27.07.2011. It is submitted that Anil Narain had duly replied to that e-mail and informed that the Petitioner cannot resign from the Company as they two were the only Directors left.

34. It is further contended that Petitioner has taken contradictory stands in respect of gaining knowledge of he being the Director of the Company. In the Complaint, he has alleged that his continuing to be a Director of the Company came to his knowledge on 28.07.2015, while in *Crl. Revision No.87/2018* it was alleged to be on 10.03.2015. It is submitted that by the admissions of the Petitioner himself, it is evident that there is no merit in his contentions.

35. The **last allegation** is in regards to forgery of the documents pertaining to the year 2012 onwards. It is submitted that resignation of



Sanjay Gupta (Respondent No.3) was accepted on 15.06.2011 and no document filed thereafter bear his signatures, as has been rightly observed by the learned Special Judge in the impugned Order dated 01.05.2018.

36. It is thus, contended that impugned Order of learned ASJ does not suffer from any infirmity and the Petition is liable to be dismissed.

37. **Submissions heard and record perused.**

38. This is a matter wherein petitioner, who is one of the Directors in the Company, is aggrieved by the conduct of the other Directors. He has claimed that initially he and Anil Narain, Respondent No.2 were the founder Directors, in which subsequently, Sanjay Gupta, Respondent No.3 was also inducted as a Director.

39. *First main contention* is that Sanjay Gupta Respondent No.3 resigned on 15.06.2011. The claim of the Petitioner is that this alleged resignation is a forged document, as the date of 15.06.2011 has been put subsequent to 20.06.2011, when Petitioner tendered his resignation. However, it has been sufficiently explained and also noted by the learned Trial Court that resignation dated 15.06.2011 got uploaded on the website of ROC immediately on 16.06.2011. The resignation of Petitioner is of subsequent date of 20.06.2011 and therefore, there can be no question of manipulation or forgery of the date on the resignation letter of Sanjay Gupta.

40. Petitioner apparently was unhappy with the working of the Company and sought to resign from the Company *vide* his Resignation Letter dated 20.06.2011, which according to him had been sent by him by post to Anil Narain, Respondent No.2. When his resignation was denied to be accepted, he sent e-mails to Anil Narain, Respondent No.2, Sanjay Gupta, Respondent



No.3 and the share holders of the Company. He has claimed that despite his resignation, his name is still being shown as one of the Directors of the Company on the website of ROC, which came to his knowledge in the year 2015.

41. In this regard, it is pertinent to observe that he himself has stated that his resignation was not accepted. It cannot be over looked that the reason for non-acceptance of resignation is evident from the fact that as on that date, there existed only two Directors in the Company and obviously, one Director could not have resigned for the existence of the Company.

42. Petitioner was well aware of all the circumstances as is also evident from his own assertions; his claim that he came to know only in 2015 that his resignation has not been accepted, is not tenable either on facts or in law.

43. It has been further claimed by the Petitioner that documents submitted to the ROC and the Minutes of the Board Meetings after June, 2011 had his forged signatures, as he had not attended those Meetings. Again, this argument is not tenable for the simple reason that resignation having not been accepted, he continued to be one of the Directors of the Company.

44. Learned MM has rightly observed that *Section 448 and 449 Companies Act, 1956*, specifically deal with the punishment for *False Statement and False Evidence*, respectively. It has been rightly concluded that no *prima facie* allegations of the documents having been forged by Sanjay Gupta, Respondent No.3 have been established.

45. The only allegations against Jagdeep Gupta/Respondent No.4 are that the Respondent No. 2 & 3 in connivance with him submitted various documents of the company with forged signatures of the Petitioner.



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Therefore, no role has been attributed to Jagdeep Gupta, Respondent No.4 who was the partner of the Auditor Company/ *M/s Alok & Company*. Therefore, Respondent No. 4 has also rightly not been summoned in the Complaint.

46. Anil Narain, Respondent No.2 has already been summoned under Sections 467/471 IPC and no *prima facie* case under other Sections is made out.

Conclusion:

47. In view of the aforesaid discussion, there is no infirmity in the impugned Order of the learned ASJ dated 01.05.2018.

48. There is no merit in the present Petition, which is hereby dismissed. Pending Application, if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 30, 2025/R