

**Amar Singh Vs. State**

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**Court :** Delhi

**Decided On :** Dec-01-1986

**Reported in :** 1987(1)Crimes228; 31(1987)DLT64; 1987RLR71

**Judge :** M.K. Chawla, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 419

**Appeal No. :** Criminal Revision Appeal No. 122 of 1986

**Appellant :** Amar Singh

**Respondent :** State

**Advocate for Pet/Ap. :** Sima Gulati and; I.U. Khan, Advs

**Judgement :**

**M.K. Chawla, J.**

(1) The present revision petition is directed against the order of the Metropolitan Magistrate dated 3.5.86 whereby the present petitioner along with others was charged to stand trial for offences punishable under Sections 419/420/468 and 471 read with Section 120B IPC.

(2) In order to appreciate the scope of argument of the present petitioner it will be relevant to keep in mind the salient features of the prosecution case. M/s Maheshwari Electricals ., during the course of their business issued ten cheques of different amounts to their different parties on or about 7/8.11.1983. Those cheques could not reach their destination and were stolen from different letter boxes in Delhi. On enquiries, the complainant company came to know that one of the cheques for Rs. 165135 has been encashed by some person other than the one in whose name it had been drawn. Again, their bankers, i.e. Canara Bank, informed the company on 15.11.1983 that another cheque for Rs 384750, which had been issued by the complainant in favor of one Kulbir Singh, had been presented to the State bank of India branch Madangir for encashment. The complainant and the Bank officials then started keeping a watch to know and apprehend the person who would come to get the payment of the said cheque.

(3) It is the case of the prosecution that one Mukesh Kumar (co-accused) came to the Bank on 18.11.83 and filed a withdrawal form in the said account. He was immediately nabbed by the Bank officials and was taken to Police Station Kalkaji. The complainant also reached there and on the basis of his statement a Fir was registered. In pursuance to the disclosure statement made by Mukesh Kumar, the present petitioner Amar Singh was arrested and in pursuance to the disclosure statement of the present petitioner a third accused Charanjit Walia was also arrested by the police,

(4) During the course of investigation, the police sent various documents and specimen handwriting of the accused persons to C.F.S.L. for obtaining opinion of the experts. In one of the reports the experts had opined that Mukesh was responsible for writing certain incriminating documents. Regarding the specimen handwriting of accused Charanjit Walia it was opined by the experts that there were grounds for suspecting that he is writer of a few documents in the case. However, the experts expressed their inability to give strong opinion for the handwriting of the present petitioner. On the completion of the formalities, the challan was filed in the Court on the basis of which the charge was framed which is now under challenge.

(5) The contention of the learned counsel for the petitioner, in brief, is that the evidence so far collected and the material on record, even if goes unrebutted, would not warrant the involvement of the present petitioner. In fact, there is no evidence to prove the existence of a conspiracy amongst the co-accused. In the absence of any documentary evidence, the present petitioner has not been proved to be concerned with the offences for which the charge has been framed. The learned counsel for the State, on the other hand, contended that the learned lower court has applied his mind to the circumstances of the present case and it is not a fit case for quashing the charge. The prosecution, according to the learned counsel, has not only collected material documents but also relied upon the statement of the witnesses who were responsible for hatching the conspiracy in taking out all the cheques from the letter boxes and then getting them encased in the name of the person in whose favor the cheques have been issued.

(6) I have carefully perused the report under Section 173 Cr.P.C. and have also minutely perused the documents attached with it. The complicity of the accused Mukesh and Charanjit Walia is prima facie established on the material already collected by the prosecution. So far as the present petitioner is concerned, the prosecution has collected material evidence to connect him with these co-accused and the offences made the basis of the charge. The modus operandi of the accused had been that they used to break open the locks of the letter boxes and take out the cheques and then got them encased after opening accounts in the fictitious names. All the accused persons used to share the proceeds of encased cheques. The present petitioner used to accompany the other co-accused and helped them in opening the accounts in the banks in the name of the drawee on the cheques. On one such occasion, the present petitioner had accompanied Mukesh to State Bank of India, Madangir branch and got opened an account of Mukesh in the name of Kulbir Singh by getting the introduction of one Adam Parsbad. This cheque was worth Rs. 3800.00 and was deposited in that account. In the absence of any adverse opinion about the handwriting of this petitioner, this fact by itself, in my opinion, is enough to bring his case within the four corners of offence with which he has been charged.

(7) Learned lower court has also given a valid reason for proceeding against the accused and this Court, at this stage, would not like to go into the evidence to find out for the accused that the charge is not made out. The Supreme Court, in a case reported as State of U.P. v. Man Mohan and others 1986 Sc 1652, has gone to the extent of holding that while exercising a revisional jurisdiction, the High Court should not quash the charge, where the learned magistrate has formed an opinion that there were ground to presume that the accused had committed an offence. At this stage, it is just not possible for this Court to hold that the prosecution is false, frivolous, vexatious or is an apparent abuse of the process of law. In view of these observations I do not find any substance in the revision petition and the same is hereby dismissed. Parties are directed to appear before the learned lower court on 15.12.86.

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