

Ranbir Singh Vs. State

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Court : Delhi

Decided On : Feb-16-1990

Reported in : 1990(3)Crimes207; 41(1990)DLT179; 1990(18)DRJ234

Judge : R.L. Gupta, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 340

Appeal No. : Criminal Miscellaneous Appeal No. 225 of 1989 and Criminal Revision Appeal No. 107 of 1989

Appellant : Ranbir Singh

Respondent : State

Advocate for Pet/Ap. : R.K. Saini and; M.S. Siddique, Advs

Judgement :

R.L. Gupta, J.

(1) This petition has been moved by Shri RK. Saini,. Advocate under Section 340 of the Code of Criminal Procedure for initiating a criminal complaint under Sections 193/197/198/199/200 of Indian Penal Code against Shri Mohd. Saleem Siddiqui, Advocate. The allegations are that the applicant is an Advocate and being an Officer of the Court he deemed it his duty to bring to the knowledge of this Court about a serious offence committed by Sh Mohd Saleem Siddiqui, Advocate in the

course of judicial proceedings. It is further alleged that Mr. Siddiqui filed criminal revision No. 98/89 which was listed for preliminary hearing on 25th April, 1989 and argued by him before Mrs. Santosh Duggal, J. The petition was dismissed in limine on the same date. Thereafter Mr. Siddiqui filed another criminal revision petition No. 107/89 on the same facts which was listed for preliminary hearing before me on 19-5-1989. It was admitted on the point of sentence only and was finally disposed of on 26-5-1989. I reduced the sentence awarded to the petitioner Ranbir Singh by the learned trial Magistrate. Instead of disclosing about the filing of, previous petition No. 98/89, Shri Siddiqui appended a certificate with the 'second revision petition certifying that, 'No similar petition has been filed either in Supreme Court of India or in Delhi High Court'. It is then alleged that Mr. Siddiqui had done the same intentionally, deliberately and with a mala fide intention and knowingly played a fraud upon this Court. He concealed the material facts with intention to achieve wrongful gain. He is alleged to have falsely certified in the second revision petition that no revision petition had been filed earlier, and had, therefore, committed offences punishable under various sections of the Indian Penal Code. The applicant also came to know that Mr. Siddiqui had got changed the last page of the grounds of the second revision petition containing the aforesaid certificate and had introduced another page to show that he had disclosed about the previous petition. This fact came to the knowledge of the applicant when he applied for supply of certified Copies of both the petitions, The certified copy made available to him of the second revision petition clearly brought out that on the last page of the petition Mr. Siddiqui had certified that no similar petition had' been filed by him either in the Supreme Court of India or in Delhi High Court. therefore, the applicant prayed that a criminal complaint may be lodged against Mr. Siddiqui.

(2) The respondent Mr. Siddiqui by means of a reply controverted the allegations made in this petition. He stated that the petitioner was inimical towards him and he had filed this petition just to take revenge from him. He also claims to have filed a criminal complaint against the petitioner under Sections 420/406/120-B of Indian Penal Code. Previously Mr. Saini was an Advocate of the father of the answering respondent. His father had engaged him in various cases. After the death of his father, his attitude became hostile and he started contacting the debtors of the

father of the respondent and incited them not to repay the debts and further that he could give them a valid discharge on the basis of blank papers signed and left by the father of the respondent during his life time with him. respondent thereafter, goes on to give details of some cases which were filed by the petitioner against him. On merits of the petition, the respondent denied having issued any certificate in second revision petition to the effect that no similar petition had been filed by him either in the Supreme Court of India or in Delhi High Court. Rather he claims to have mentioned that the earlier revision petition had already been dismissed in liming by this Court. As such he denied being guilty of any intentional or deliberate fraud. He also denied having changed the last page of the grounds of second revision petition. He also claims to have directed the Stenographer at the time of drafting the second revision petition that he should title the second petition under Section 482 of the Code instead under Sections 397/401 of the Code. But inadvertently the Stenographer did not mention it as a petition under Section 482 of the Code. It is further stated in this reply that the Stenographer had changed the last page mentioning about the dismissal of the earlier petition but unfortunately he could not remove the earlier page and in this manner both the pages remained in the file. Immediately thereafter Mr. Saini is alleged to have obtained the certified copy of that page and after obtaining the same he himself must have removed the other page from the file and leveled all these false allegations against the respondent.

(3) I have heard arguments advanced by Sh. R.K. Saini and Sh. M S. Siddiqui.

(4) It is not denied by Mr, Siddiqui that he did file two revision petitions. His only grievance that actually by mistake two pages as last pages were appended to the second revision petition. One last page which contained the certificate of non filing of a revision petition either in this Court or in the Supreme Court of India had to be removed from the file but the same could not be done because of the inadvertence of the Stenographer. First of all it is not understood, if it was correct, why Mr. Siddiqui did not even take the trouble of looking into the revision petition that it actually contained two last pages, one with certificate of non filing and the other with such a certificate. If actually two pages had been filed then I fail to understand how Mr RK. Saini could have been supplied with a certified copy of the second

revision petition with only one last page. If in fact there were two pages inadvertently filed as last pages with the second revision petition, then certainly in the certified copy also this fact would have been reflected. Certified copy obtained by Mr. Saini and which is also placed on the record of this application, clearly shows that on the last internal page 6 there is a certificate in the hand writing of Mr. Ms. Siddiqui to the following effect, 'No similar petition has been filed either in Supreme Court of India or in Delhi High Court'. Moreover it may also be noted that there are circumstances in the file of second revision petition to indicate that he had actually not attached and filed two pages as last pages earlier, but had actually removed the previous last page and substituted the same by two last pages. According to the normal practice when a lawyer files a revision petition, all the pages of the revision petition are duly tagged. Later on, when it is subjected to scrutiny in the office of the registry, the tag attached by the lawyer joining the pages of the revision petition is removed and it is replaced by a lace which is put through the paper hook by making holes in each page. The whole petition then as such is kept in a file cover. The last page of this second revision petition does not bear any Poker mark or the original page marking which is done by a lawyer either in his own hand or in the hand writing of his clerk. All other pages except the last page of the second revision petition have Poker and page markings by lawyer or his clerk. thereforee prima facie I am of the strong view that in the absence of any Poker marking on the last page, it appears to have been substituted and the page which was earlier attached with the revision petition has been removed. Obviously this must have been done by Mr. Siddiqui in connivance with some official of this registry after the decision of the second revision petition and before preparation of the certified copy in question, sometime after filing of complaint by Mr. Saini.

(5) Mr. Siddiqui has also argued that there had also been a compromise between him and Mr. Saini in proceedings pending in the revision petition in the court of Sh. Lokeshwar Pd. Addl. Sessions Judge, Delhi. According to the compromise both of them had decided to withdraw their cases' against each other. He has filed an affidavit of Sh. R.C. Chopra, Advocate in which he has sworn that Mr. Saini had undertaken at that time that he will withdraw his petition which he had filed before this Court i.e. the present criminal petition. It is not necessary for me to go into the merits of that argument or the alleged compromise. I am of the view that even if

there had been such a compromise between Mr. Saini and Mr. Siddiqui, the same would have been of no consequence. We are actually dealing with a very serious matter of the forging of the judicial records of the High Court. The allegations of such forgery and other allied offences are against an Advocate. A very heavy responsibility is cast upon Advocates. They are the custodians of the liberty of citizens. Infact, the Courts may be inclined some time to forego the commission of such offences by ordinary litigants. But in case of an Advocate, it seems very difficult to over look the commission of such serious offences. It is only through the agency of the- Advocates that the courts function smoothly. In fact, they are part and parcel of the system of the Administration of justice and if such offences committed by Advocates are not dealt with properly, the faith of the common man may be very adversely affected in the very system of Administration of justice. This action of Mr. Siddiqui also amounts to gross professional misconduct. It is not the professional duty of an Advocate to fabricate false evidence in order to get some benefit to his client. His position is like a bridge between his client and the court for the removal of the traces of any injustice which might have been suffered by his client either before coming to the court or during the trial of his case. .It does not enable to transcend the lawful limitations imposed upon him by the very nature of the ethics of the legal profession. If any such crossing of the permissible limits by a lawyer is brought to the notice of the court, certainly it becomes the incumbent duty of the court to rise to the occasion, and in the interest of orderliness in Society in which we live, it painfully has to take steps in order to halt the downward trend of long accepted values. In all humility, thereforee, it is noted with regret that the conscience of this Court has been deeply hurt by the commission of such an act by a brother Advocate.

(6) Another fact convassed by Mr, Siddiqui that Mr. Saini had been giving discharges to some debtors of the father of Mr. Siddiqui would not be a relevant consideration in this matter. If Mr. Saini is guilty of any such acts of commission or omission, the remedy of Mr. Siddiqui lies somewhere else and not in these proceedings before this Court. The only point involved in these proceedings is as to whether Mr. Siddiqui is guilty of tampering with the records of this Court for deriving and unlawful gain. This fact is prima facie found to be established as discussed earlier.

(7) It now remains to be seen as to what offences prima facie appear to have been committed by Mr. Siddiqui. He seems to be guilty firstly under Section 193 of the Code. The government of the charge under this Section is against one who fabricates false evidence for the purpose of being used in any stage of the Judicial proceedings. Prima facie there is no doubt that this second revision petition had been filed by Mr. Siddiqui and it was during pendency of the judicial proceedings in the second revision petition that fabrication of false evidence by substituting one page for the other prima facie appears to have been committed by Mr. Siddiqui. He is also shown to have issued false certificate of non filing of the revision petition in the Supreme Court India or in the High Court relating to a very material fact. Under the relevant rules he is required to issue such certificate of non filing. Prima facie he appears to have appended this false certificate knowing or believing that such certificate is false in a material respect. This covers his action under Section 197 of the Code also. He also used this certificate as true knowing it to be false. It was only on the basis of this certificate that the revision petition was admitted by me on the point of sentence. If he had disclosed the true fact of earlier having filed a criminal revision petition, I would not at all have been inclined to entertain this revision petition. therefore, his action is also covered under Section 198 of the Code prima facie. This certificate can also be called a declaration. therefore, it will also fall within the mischief of Sections 199 and 200 of the Code.

(8) It, therefore, appears prima facie that Mr. Siddiqui is guilty of having committed offences under Sections 193, 197, 198, 199 and 200 of the Indian Penal Code. The Registrar of this Court is, therefore, directed to prepare necessary complaint along with the list of witnesses and documents etc. and forward the same to a Metropolitan Magistrate of competent jurisdiction. Before parting with this case, I must mention that all the views expressed above are prima facie. These are not expressed with a view to prejudice the opinion of the learned Metropolitan Magistrate who may ultimately be called upon to try this case. He will be quite free to come to his own conclusions. With these observations, the petition stands disposed off.

