

Roweena Sharma Vs. State and Another

Roweena Sharma Vs. State and Another

SooperKanoon Citation : sooperkanoon.com/700834

Court : Delhi

Decided On : Sep-28-1999

Reported in : 2000IIAD(Delhi)737; 84(2000)DLT91; 2000(52)DRJ788

Judge : Anil Dev Singh and; R.S. Sodhi, JJ.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 267

Appeal No. : Crl. W. 900/1999 & Crl. M. 9091/99

Appellant : Roweena Sharma

Respondent : State and Another

Advocate for Def. : Mr. J.R. Goel, Adv.; Mr. K.C. Mittal, Standing Counsel

Advocate for Pet/Ap. : Mr. K.T.S. Tulsi, Senior Advocate and; Mr. Vikas Pahwa, Adv

Judgement :

ORDER

Anil Dev Singh, J.

Crl. W. 900/1999 & Crl. M. 9091/99

1. On 19.4.1999 a complaint was filed with the Police Station Greater Kailash I against Kuber Group of Companies and their officials. On the basis of the

complaint an FIR was registered under Sections 406/409/420/120 IPC. In the complaint it is stated that the officials of the Kuber Group of Companies approached the complainants & asked them to keep their personal savings as fixed deposits in the various schemes launched by the aforesaid Group. The further allegation in the complaint is that the officials of the Kuber Group of Companies persuaded them to influence their relatives and friends to keep their savings in fixed deposit schemes of Kuber Group of Companies. It is also averred that representations were made to the effect that the Kuber Group of Companies were doing extremely well. Acting upon the aforesaid representations, deposits were made by the complainants in October 1988. When the deposits were at the stage of maturity, the concerned office of Kuber was shut down at Buland Shahar. Since the complainants were not able to contact anyone at Buland Shahar, they approached the Head Office of the company at Greater Kailash. The company handed over a few cheques to the complainants in lieu of the deposits but the cheques were dishonoured by the concerned bank(s) with the remark 'funds not arranged for'.

2. Pursuant to the registration of the FIR, the petitioner, who is the wife of the Chairman of the various Kuber Group of Companies and a Director of Kuber Mutual Benefits Limited, which has its Registered Office in Kanpur was arrested and is in judicial custody. It is not disputed on either side that the FIR in the instant case has culminated in the filing of a charge sheet. The petitioner moved an application before the trial court for seeking bail. The Metropolitan Magistrate by his order dated 10.9.1999 granted interim bail to the petitioner for a period of one month on her furnishing a personal bond in the sum of rupees one lakh with two sureties of the like amount for the purpose of enabling her to make efforts to make payment to the investors. In the meantime various Criminal Courts issued production warrants requiring her attendance in connection with the investigation of cases registered against her. Petitioner apprehending that she will not be released despite the order of the Metropolitan Magistrate dated 10.9.1999 granting interim bail to her, filed the instant writ petition for grant of the following reliefs:-

'A. An appropriate writ, order or direction under Article 226 of the Constitution of India releasing the Petitioner from the custody of the respondents as she has been

granted interim bail by the learned Metropolitan Magistrate, New Delhi in FIR No. 126/99 for the purposes of the effective implementation of the Scheme for the repayment to the investors and to supervise the disposal of the properties and disbursement of the money to all the investors.

B. Direct the respondents to release the petitioner till the pendency of this petition.

C. Pass such further and other relief as this Hon'ble Court deem fit, and appropriate in facts/circumstances of the present case and in the interest of justice.'

3. In reply to the petition, Sh. Kewal Singh, Deputy Commissioner of Police, Headquarters filed an affidavit. As per the affidavit, the Kuber Group had floated a number of companies for collecting money from the investors. Till date more than 739 complaints have been received against Kuber Mutual Benefits Limited, Kuber Planters, Kuber Build well Ltd., Kuber Auto General Finance & Leasing Ltd. and Kuber Media Ltd. in Crime Branch. According to the affidavit several crores of rupees are involved in the transactions. In another affidavit filed by the Superintendent, Central Jail No.1, Tihar it is pointed out that production warrants have been issued for the attendance of the petitioner in four cases under Section 138 of the Negotiable Instruments Act, 19 cases under different provisions of the Indian Penal Code some of which are under Sections 409/420 IPC and some are under Sections 406/420/467/468/120-B IPC as on 23.9.1999.

4. Mr. Tulsi, learned senior counsel for the petitioner states that despite the grant of bail to the petitioner, there is no possibility of the petitioner being released from Tihar Jail without the intervention of this Court inasmuch as production warrants have been issued by various Courts at U.P. & Haryana for requiring her attendance in connection with the investigation of criminal cases registered against her.

5. Mr. Tulsi has invited our attention to Section 267 of the Code of Criminal Procedure. According to the learned counsel, production warrants can be issued only for the purpose of requiring the attendance of a prisoner in custody in aid of the trial. In other words a production warrant can be issued under Section 267 of

the Code of Criminal Procedure in a case where charge sheet has been filed & not in a case where attendance is required for the purposes of investigation. Learned counsel for the State of U.P. has produced a copy of the charge sheet in case FIR No. 187/99 dated 2.9.1999. Learned counsel points out that pursuant to the charge sheet, the Judicial Magistrate, Lucknow has issued production warrants for seeking the attendance of the petitioner on 21.10.1999. Learned counsel for the State of U.P. submits that in view of the production warrants, the petitioner is required to be produced before the Court of Judicial Magistrate II, Lucknow. At this stage Mr. Tulsi Counsel says that since a production warrant has also been issued by a Court at Lucknow for seeking the attendance of the petitioner for the purposes of the trial, it will be more appropriate for the petitioner to approach the Supreme Court for a relief similar to the one as was claimed in Writ Petition (Criminal) No. 95/1995.

6. Learned senior counsel for the petitioner, in the circumstances, wishes to withdraw the writ petition and says that he will file appropriate proceedings before the Supreme Court.

7. In view of the statement of the learned senior counsel for the petitioner, it is not necessary to determine the question whether or not a production warrant can be issued under Section 267 of the Code of Criminal Procedure by a Court for requiring the attendance of a prisoner for the purposes of investigation of a case other than the one for which he is detained. Accordingly, the writ petition is dismissed as withdrawn.

8. Copy of the order be given duly to the learned counsel for the petitioner.