

Dilip Singh and Etc. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-30-1997

Reported in : 1997CriLJ1854

Judge : A.S. Godara, J.

Acts : [Drugs and Cosmetics Act, 1940](#); Drugs and Cosmetics Rules, 1945; Code of Criminal Procedure (CrPC) , 1974 - Sections 438; Indian Penal Code (IPC) - Sections 120B, 420, 465, 467, 468 and 471

Appeal No. : Criminal Misc. Bail Application Nos. 2840 and 3004 of 1996

Appellant : Dilip Singh and Etc.

Respondent : State of Rajasthan

Advocate for Def. : S.K. Vyas, Public Prosecutor

Advocate for Pet/Ap. : J.R. Beniwal, Adv. in Bail Petn. No. 2840/96 and; J.S. Choudhary, Adv. in Bail Petn. No. 3004/96

Disposition : Petition dismissed

Judgement :

ORDER

A.S. Godara, J.

1. Both these petitions filed under Section 438, Cr.P.C, since arise of F.I.R. No. 272/96 registered and pending investigation with the Police Station, Shastri Nagar, Jodhpur under Sections 420, 465, 467, 467, 468 read with Section 471 and 120B, I.P.C. both the petitions are disposed of by this common order.

2. I have heard the learned counsel for the petitioners as well as the learned public prosecutor.

3. Briefly stated, the prosecution story, as is revealed from the F.I.R. lodged by the Joint Director, Medical and Health Services, Jodhpur Zone, Jodhpur along with enclosures and relevant documents, is that the petitioner Umesh Chandra Bansal was posted and working as Assistant Drug Controller at Jodhpur during the relevant period and he was authorised to issue licences to sell, stock or exhibit or offer for sale or distribute by retail, drugs as specified pursuant to the provisions of the [Drugs and Cosmetics Act, 1940](#) and the Drugs and Cosmetics Rules, 1945 framed thereunder. Since the licensed concerns could have carried on these business through the agency of qualified and registered pharmacists, as licensed by the licensing authority, Mr. Bansal issued licences authorising pharmacists registered there along with to the concerns, besides others to the concerns as are listed and are subject matter of enquiry and investigation situated within the territory of Revenue Districts-Jodhpur, Pali, Jalore, Sirohi, Banner and Jaisalmer.

4. The petitioner Dilip Singh was working as a concerned clerk dealing with files concerning to issuance of licences and concerned activities therewith to various applicants seeking licences and authorities and registration to work as licensed pharmacists and druggists during the year 1994-95 and 1995-96, directly under the authority of Mr. Bansal, Dilip Singh used to process the applications, agreements, affidavits and relevant documents of the aspirant-applicants. They entered into a criminal conspiracy and, as a result, issued licences to various chemists and pharmacists to operated such medical and drug stores as are detailed along with the F.I.R. and are also borne out of the investigation and the preliminary enquiry carried out by Mr. Gupta, Asst. Drug Controller, Ajmer and it further transpired that the accused-petitioner Umesh Chand Bansal committed acts of forgeries by way of falsely verifying, attesting and authorising such licensed

concerns thereby showing and verifying photos, descriptions and particulars of more than one pharmacists working simultaneously at two different concerns even situated in far of districts. It also transpired that huge amount of bribe was accepted through the agency of Dilip Singh for resorting to such acts of commission of perjuries, foregeries and falsification of public documents authorising certain concerns to carry on the business of selling, stocking and distributing drugs through the agency of unauthorised pharmacists falsely shown to have been registered and working with such concerns.

5. Lastly, on registration of the aforesaid F.I.R. so pending investigation, both these petitions have been filed.

6. The learned counsel for the petitioner Umesh Chand Bansal has vehemently argued that after the formalities as required by the established procedure as well as the rules, Dilip Singh prepared the relevant papers and after due verification by the concerned Drug Inspector, he had only signed in his official capacities and was never in. know of the real state of affairs and he was always kept in dark and, therefore, he had signed and issued such licences after putting his signatures in verification and attestation of the pharmacists as is alleged in the F.L.R. and, therefore, he was never a party to the alleged criminal conspiracy for commission of the aforesaid offences.

7. On the other hand, the learned counsel for Dilip Singh has vehemently contended that all such illegalities, irregularities and the alleged offences were committed by Umesh Chand Bansal and he had no concern with the alleged commission of the offences. He had given all the files in charge, to his succeeding clerk and, therefore, he did not have anything to do with the alleged licences and alleged missing of the files and record as is alleged by the prosecution. He was innocent throughout and never conspired with Umesh Chand Bansal or anybody else including the concerns who were alleged to have been issued licences by the department and, therefore, since he is absolutely innocent and had nothing to do with the alleged offences and therefore, since Umesh Chand Bansal with the connivance of Mr. C. B. Gupta, Drug Inspector, was directly involved in commission of such offences and, therefore, in case he is arrested, he would be

faced with greater hardship and therefore he be granted anticipatory bail.

8. The learned public prosecutor, on the basis of evidence collected in support of the allegations of the F.I.R. during the course of investigation, as is also borne out of the record of the medical agencies which were issued licences by the accused-petitioner Mr. Bansal during the relevant period, has submitted that this is a very serious matter in which the petitioners besides the licences have conspired to issue and obtain false and fake licences otherwise to which they were not eligible and the petitioners have resorted to all sorts of malpractices, illegalities, irregularities and commission of acts of falsification of public record which could have otherwise been an important evidence against the petitioners. Therefore looking to the gravity of the offences, none of the petitioner deserves to be granted anticipatory bail.

9. I have given my considerate thought to the submissions made by the learned counsel for the petitioners as also by the learned public prosecutor, gone through the investigation record and considered the same carefully.

10. At the very out set, there is no hesitation to hold that the officials and their subordinates entrusted with the statutory duties of issuing licences to the intending licencees to carry on the business of selling, stocking, exhibiting and to offer for sale or distribution drugs by the retail, as permitted thereunder and to operate a pharmacy, strictly in conformity with the provisions of the [Drugs and Cosmetics Act, 1940](#) and the Rules of 1945 framed thereunder, resorted to commission of serious acts of foregeries, cheating and corruption. As is also borne out of the F.I.R. having been lodged by the Joint Director, Medical and Health Services, Jodhpur Zone, Jodhpur, the petitioner Mr. Bansal was posted on the post of Asstt. Controller of Jodhpur while the petitioner Dilip Singh as an L. D. C, was incharge of the files pertaining to such licentiates and pharmacists seeking licences and running such medical drug and pharmacy shops pursuant to such licences. There is overwhelming evidence in the form of F.I.R. lodged by the Joint Director himself and also clearly borne out of the statements of Mukesh Vaishnao of Vaishnao Stores, Pukh Raj of the M/s. Vardhman Medical Hall, Siwana, Bhanwar Lal of Shri Balaji Medical Store, Chadi, Raghubir Singh, Asstt. Drug Controller, who

succeeded Mr. Bansal, who earned out inspection of the firms, as are mentioned in the F.I.R., Mr. Jayant, Drug Inspector, Ram Ratan Verma, Bharat Gehlot of the M/s. Laxmi Medicos, Pokaran, JawaharLal Sharma Chandresh Kumar, Bajrang Singh Shekhawat of the M/s. Champawat Medical Store, Pokaran, Murad Khan of the M/s. Ramdeo Medical Store, Nachana, Rugh Singh Rajpurohit of Hansa Medical Store, Dechu, Jitendra Kumar of M/s. Mertia Medical Store of Sheopur, Nirak Chand incharge of the M/s. R. P. Medical Store, Lohawat, as borne out of the supporting evidence in the forms of applications, agreements, affidavits, certificates of pharmacists and the duplicates forged on the basis of the same by forgoing duplicate certificates and pasting and replacing photos of fictitious and wrong persons.

11. Rajesh Taparia has clearly stated that the petitioner Dilip Singh obtained a bribe of Rs. 22,000/- to prepare a false licence showing therein name of Mahesh Taparia as a qualified pharmacist and authorised druggist and, lastly, the file of the Rajesh Medical and Provision Stores, Jodhpur was surreptitiously got disappeared. As per statements of Jawahar Lal Sharma, Rama Kishan Verma and Murad, J. Khan, pharmacists, they were registered as pharmacists to run the business of stocking, exhibiting, selling, distributing etc. drugs, as per the licences issued by the both petitioners by even attesting their photos on the licences issued in the names of the Chandresh Medical Stores, Pali, M/s. Medical Store, Jarda (Pali) and the M/s. Ramdeo Medical Store, Nachana (Jaisalmer) respectively. However, with a corrupt motive and pursuant to a deep rooted criminal conspiracy, as is also borne out of the aforesaid witnesses, simultaneously the said Ram Kishan Verma, Jawaharlal Sharma and Murad Khan were also registered as pharmacists of the firms (1) M/s. Laxmi Medicos, Pokaran (Jaisalmer), (2) Champawat Medical Store, Pokaran (Jaisalmer) and (3) Pearl Medicals, Jodhpur falsely whereas these persons never applied therefor to be registered as pharmacist of the latter firms. The petitioner Dilip Singh was the incharge clerk concerned dealing with these files and, consequent upon inquiry and report by the concerned Drug Inspectors, both the petitioners, with the connivance of the licencees of the aforesaid firms, registered fictitious persons by attesting different photos or replacing the original ones by the photos of other persons in fictitious identity and descriptions. There are numerous instances of similar scandals and

the involvement of the petitioners is more than evident. There is an evidence of over-flowing and rampant corruption in this racket of issuance of licences to the chemists and druggists. It needs a through impartial, fair and logical investigation at the hands of senior and experienced officers.

12. The petitioners knew that the names, affidavits, agreements, photos and verifications so being mentioned and attested and used were fictitious and still they freely resorted to such acts of misconduct.

13. The motive for the alleged offence is self evident.

14. Besides as per the record, the petitioners, in furtherance of the common design of their criminal conspiracy, not only forged and either destroyed or got disappeared concerned files of the licencees as are listed, restored to removal of original record and even if involvement of some Drug Inspectors, clerks and chemists and druggists is accepted, there is strong evidence to show that the accused persons have committed the offences as are being registered and investigated against him. The gravity of the same does not warrant to still release them on bail.

15. Therefore, both the petitions are dismissed. An expeditious, fair and thorough investigation by a competent officer is the urgent need.

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