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G.S.Saluja Vs. State and anr

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Court : Delhi

Decided On : Sep-16-2011

Judge : Pradeep Nandrajog, J.

Acts : Indian Penal Code (IPC) - Sections 467, 467, 477A, 420, 109, 120-B, 34; Code of Criminal Procedure (CrPC) - Section 195

Appeal No. : Crl.M.C.No.13/2002; Crl.M.C.No.3811/2002

Appellant : G.S.Saluja

Respondent : State and anr

Advocate for Def. : Ms.Firdouse Qutbwair, Adv.

Advocate for Pet/Ap. : Mr.Tamim Qadri, Adv.

Judgement :

1. The petitioners, who are husband and wife are aggrieved by 2 different orders where-under taking cognizance of complaints filed by the 2nd respondent in both petitions, the 2 have been summoned.

2. The complaint in question pertains to stated offences committed by the petitioners as also alleged co-accused, Punita Saluja, relating to Sections 467/467/477A/420 IPC read with Section 109/120-B/34 IPC.

3. The complaint in question appears to be a fall out of certain documents produced by the accused in another FIR registered at the instance of the 2nd respondent who alleged that Ms.Punita Saluja had developed intimacy with him and enticed him to hand over signed blank cheques and that the other co-accused, who are her relations, used the same to siphoned off `1.15 crores from his account. In said FIR, accused produced an agreement as also 3 letters under cover of which the cheques were statedly issued by the complainant.

4. As per the complainant in question the agreement relied upon as also the 3 letters were the result of blank papers signed by the complainant being used to fabricate the documents.

5. Suffice would it be to state that in view of the law declared by the Constitution Bench reported as (2005) 4 SCC 370 Iqbal Singh Marwah & Anr. vs. Meenakshi Marwah & Anr.,since the alleged forgery do not relate to documents in Court record but relate to stated fabrication resorted to outside the Court, Section 195 Cr.P.C. would have no application.

6. That apart, whether or not the cheques are a result of the complainant being enticed to handover blank signed cheques would be decided in FIR which has been registered and needless to state the defence therein would be tested being the stated agreement executed by the complainant and the cheques being issued pursuant to the said agreement. In other words, the defence would be an integral part of the adjudication in the FIR and thus it would be advisable that the complaint which is subject matter of challenge in the instant petitions be tagged on with the trial with respect to the FIR which has been registered.

7. I highlight that the FIR relates to offences triable before a learned Magistrate and the subject matter of the complaint is also triable before learned Magistrate.

8. The captioned petitions are accordingly disposed of directing that the complaint lodged by respondent No.2 would be tagged on with FIR No.223/1996 Police Station Defence Colony.

9. No costs.

Crl.M.A.No.10941/2005 in Crl.M.C.No.13/2002 Crl.M.A.No.11047/2005 in Crl.M.C.No.3811/2002

Since the main petitions have been disposed of, both these applications are disposed of as infructuous.

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