

Kuldeep Singh Vs. State and ors

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Court : Delhi

Decided On : Mar-04-2013

Judge : G.P. Mittal

Appellant : Kuldeep Singh

Respondent : State and ors

Advocate for Def. : Ms. Dayan Krishnan

Advocate for Pet/Ap. : Mr. M.S. Butalia

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

4. h March, 2013 + W.P.(CRL) 868/2012 KULDEEP SINGH Through:
Petitioner Mr. M.S. Butalia, Advocate Versus STATE & ORS Respondent
Through: Ms. Dayan Krishnan, Addl. Standing Counsel CORAM: HON'BLE MR.
JUSTICE G.P.MITTAL JUDGMENT G. P. MITTAL, J.

(ORAL) 1. The Petitioner invokes inherent powers of this Court under Section 482 of the Code of Criminal Procedure (Cr.P.C.) for transfer of the investigation of the case FIR No.345/2006 under Sections 420/406 IPC registered at Police Station Tilak Nagar to some other independent agency, like CBI.

2. In nutshell, the case of the Petitioner, who is the complainant in the earlier said FIR, is that the Petitioner was carrying on the business of insurance and a

financial advisor in his office at L-2/103, New Mahavir Nagar, New Delhi. Mr. Amarjit Singh Chatwal, Harprit Singh Jolly @ Rajinder Singh Jolly @ Harman Gill and Paramjit Singh came to his (Petitioners) office on 15.05.2003 and offered him to become a subagent of accused Amarjit Singh Chatwal who is an agent of PNB Housing Finance Ltd. Since the proposal given by the earlier said Amarjit Singh Chatwal and others appeared to be attractive, the Petitioner became the sub-agent of Amarjit Singh Chatwal of PNB Housing Finance Ltd. The Petitioner referred 8-9 cases of grant of loan to accused Amarjit Singh Chatwal and Rajinder Singh Jolly in his capacity as sub-agent of PNB Housing Finance Ltd. from June, 2003 to January, 2004. However, in none of the cases, the loan got sanctioned from PNB Housing Finance Ltd. by the accused. The Petitioner, therefore, requested Amarjit Singh Chatwal and Rajinder Singh Jolly to refund the advance paid to them in respect of the earlier said 8/9 business transactions. They, however, assured the Petitioner that they would visit his office and discuss the matter.

3. The accused persons later on informed him that they were running a finance company in the name and style of Credit India Ltd. in which Navprit Kaur Chatwal and Ms. Simran, wife and daughter respectively of Amarjit Singh Chatwal were also the directors. According to the Petitioner, he processed a loan transaction with M/s Mohan Gold Water Breweries Ltd.(M/s Mohan Gold) with Credit India Ltd. However, the loan was not granted, on the other hand, certain amounts which were paid by M/s Mohan Gold as process charge, etc. were misappropriated and M/s Mohan Gold were cheated by the accused persons. The Petitioner was also cheated as, though the amount received from M/s Mohan Gold was credited in his (Petitioners) account and was withdrawn by him and paid to the accused, the Petitioner was asked to give certain cheques to M/s Mohan Gold.

4. The Petitioners grievance is that the accused persons are very influential and the local police, particularly Inspector Raman Lamba, IO of the case has not carried out the investigation of the case fairly and properly. Rather, the investigation proceeded so as to save the accused persons. Referring to the status report filed by Inspector Raman Lamba and the orders dated 18.02.2012 and 31.03.2012 passed by the learned Metropolitan Magistrate(M.M.), the learned

counsel for the Petitioner urges that in spite of repeated reminders by the learned MM, the local police did not carry out the investigation properly. The Petitioner could not even trace the persons who were running M/s. Credit India Ltd. in spite of the fact that certain advertisements etc. purported to have been issued by the accused persons were produced before the IO. The learned counsel for the Petitioner contends that although the learned Additional Standing Counsel urges that the investigation of the case has already been transferred to DIU, but still the status report has been filed by Inspector Raman Lamba who was the previous IO.

5. I have perused the orders passed by the learned M.M., particularly orders dated 18.02.2012 and 31.03.2013. To say the least, it is apparent that the local police was not interested to bring forth the truth. So much so that it could not even collect specific evidence as to who was the persons running M/s. Credit India Ltd.

6. Mr. Dayan Krishnan, the learned Additional Standing Counsel for the Respondents fairly concedes that this Court has ample power to order for CBI investigation, but it can be done only in exceptional cases where the Court finds that the State police including its specialized agencies would be unable to carry out fair and impartial investigation. A reference in this connection may be made to *Narmada Bai v. State of Gujarat*, (2011) 5 SCC 79. *Rubabbuddin Sheikh v. State of Gujarat*, (2010) 2 SCC 20. and *Mohd. Anis v. Union of India*, 1994 Supp.(1) SCC 145.

7. From the material which has been produced on the record, the fact that Inspector Raman Lamba preferred to record the statement of the witnesses which had already been recorded, was not interested in collecting the material as to who were the persons behind M/s Credit India Ltd., proceeding to state that the record of the News Agency where M/s Credit India Ltd. had issued certain advertisements were destroyed, the fact that in spite of the repeated reminders the investigation was not completed and the senior officers supervising the investigation remained dormant would compel me to transfer the investigation of this case to an agency other than the local police. At the same time, at this stage, I do not feel that even specialized agencies of the Delhi Police will not be in a position to carry out fair, prompt and independent investigation.

8. In the circumstances, the investigation of the instant case FIR No.345/2006 is ordered to be transferred to EOW Branch of Delhi Police. It is directed that the investigation shall be carried out by an officer not below the rank of an Inspector and shall be monitored and supervised by an officer not below the rank of Deputy Commissioner of Police. The concerned Deputy Commissioner of Police, EOW Branch shall furnish the status report to the Chief Metropolitan Magistrate of the West District on 1st May, 2013 and shall submit the subsequent reports on 01.06.2013 unless otherwise directed by the concerned CMM.

9. The Petition is disposed of with above terms 10. Pending Applications stand disposed of.

11. A copy of the order shall be transmitted to the Commissioner of Police.

12. Dasti to Mr. Dayan Krishnan, the learned Additional Standing Counsel for the Respondents. G.P. MITTAL, J.

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