

Tejpal Singh Saathi Vs. State

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Court : Delhi

Decided On : Mar-14-2013

Judge : S. P. Garg

Appellant : Tejpal Singh Saathi

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI RESERVED ON :

7. h March, 2013 DECIDED ON :

14. h March, 2013 + BAIL APPLICATION NO.1768/2011 & CRL.M.A.Nos.6754/2012, 13149/2012 & 13167/2012 TEJPAL SINGH SAATHIPetitioner Through : Mr.K.K.Sud, Sr.Advocate with Mr.Jayant K.Sud, Mr.Vishal Dabas & Mr.Chirag Khurana, Advocates. versus .Respondent STATE Through : Mr.M.N.Dudeja, APP. Mr.Ramesh Gupta, Sr.Advocate for the complainant. CORAM: HON'BLE MR. JUSTICE S.P.GARG S.P.GARG, J.

1. The petitioner has filed application for anticipatory bail in case FIR No.144/2011 registered under Section 193/420/467/471/120B IPC at PS EOW. Status report has been filed by the State.

2. I have heard the learned Senior Counsel for the petitioner, Senior Counsel for the complainant and learned APP, and have examined the record. Counsel for the petitioner urged that the dispute with the complainant is primarily a civil dispute for

which he has already filed suit for Declaration, Partition, Injunction and Rendition of accounts vide CS (OS) No.417/2010 which is pending in this Court. The complainant has claimed 1/7th share in properties left behind by Late Sh.Mohinder Singh Saathi who expired intestate on 26.09.2008. On 11.05.1999, a Deed of Family Settlement was executed between the parties which was never challenged by the complainant. The complainant has no right, title or interest in the properties left by deceased Mohinder Singh Saathi after the settlement deed. The allegations in the complaint are false and fabricated. The FIR has been registered to put pressure upon the complainant. Attempt has been made to convert civil remedy into criminal one. It is further argued that the petitioner has joined the investigation many times and custodial interrogation is not required at all. Reliance has been placed on, Sharad Kumar Aggarwal vs. State, 194 (2012) DLT 489.Monika Singh vs. State, Bail Application No.2492/2009 & Romila & Anr. Vs. State & Ors., 2003 (69) DRJ 25.(DB).

3. Learned APP and learned Senior Counsel for the complainant argued that the investigation is at its threshold and custodial interrogation is required. Gift deed was forged by the petitioner and got transferred 79971 shares worth crores in his name on 10.09.2008. The Investigating Officer has recorded the statements of the concerned witnesses and obtained the report from the Forensic Science Laboratory which indicated that the gift deed was forged and fabricated on 10.09.2008 whereas no such stamp paper was issued that day. Statement of G.C.Walesha, second attesting witness has been recorded and vide letter dated 05.09.2011 he has requested to the EOW to make him a witness. Custodial interrogation of the petitioner is required to recover the original Will allegedly executed by his father; to ascertain how the document in question was forged and fabricated and if so, by whom; to ascertain the involvement of other persons including that of bank employees and actual modus operandi and volume of entire fraud. It is further argued that mere filing of civil suit by the complainant against the petitioner does not negative criminal liability and both actions can be simultaneously maintained. Dilip Sudhakar Pendse vs. State of NCT of Delhi, CrI.M.(M).No.293/2003; Homi Rajvansh vs. CBI, 2012 (1) JCC 65.Jai Prakash Singh vs. State of Bihar & anr., 2012 (4) LRC 6.SC; Deepa Tracy vs. State (NCT of Delhi), 2003 (2) JCC 62.& Maruti Nivrutti Navale vs. State of Maharashtra &

anr., 2012 IV AD (CLI.) SC 59.were relied.

4. Civil suit CS (OS) No.417/2010 for Declaration, Partition, Injunction and Rendition of accounts was filed by the complainant- Gurjit Singh Saathi against the petitioner Tejpal Singh and M/s. Mag Filters and Equipments Pvt. Ltd. in February, 2010. The petitioner filed written statement in the said suit. Vide order dated 09.03.2010 the parties were directed to appear before the Joint Registrar on 25.05.2010 for admission/ denial of documents. None of the parties placed on record orders in the said civil proceedings subsequent to that. Apparently, the complainant was not granted any interim relief though he had moved an application under Order 39 rule 1 & 2 read with Section 151 CPC. The petitioner has filed on record photocopy of registered Deed of Family Settlement dated 11.05.1999 in which the petitioner, complainant and their parents are signatory. The said family settlement was never challenged in any proceedings by the complainant. Execution of the family settlement deed is admitted. The complainant never resiled from the terms and conditions incorporated in the family settlement. It is stated that the said family settlement was acted upon between the parties including the complainant.

5. On 05.08.2011, the complainant lodged a complaint to DCP to register a case against the petitioner and others. Various allegations were leveled against the petitioner for manipulating and forging documents including gift deed dated 10.09.2008. It was alleged that on 11.05.1999 a limited family settlement deed for some of the properties was executed. The grievance of the petitioner was that his 1/7th share in the assets of his late father was credited by the petitioner and unauthorized lose was caused to him. The petitioner filed application under Section 438 Cr.P.C. before the Sessions Court on 29.08.2011. The Court found that there was element of settlement and counsel for the complainant and applicant were ready to refer the matter for Mediation. The matter was referred to Mediation Cell and interim protection was granted to the petitioner. The parties appeared before the Mediation Cell, Tis Hazari Courts, Delhi on various dates and interim protection was extended by the Sessions Court from time to time. Vide order dated 03.10.2011 again counsel from both sides volunteered to sit together and try to formulate some compromise between the parties who were real

brothers. On 17.10.2011, it was recorded on the joint request of the counsel that compromise was nearly over and only modalities of settlement were to be finalized. Similar request was made on 24.10.2011, 08.11.2011, 25.11.2011. On 08.12.2011, the parties reported that the talks of compromise had failed, Sessions Court dismissed the anticipatory bail application of the petitioner.

6. Interim protection was again granted to the petitioner by this Court on 13.12.2011 when the parties were given a fair opportunity to settle the matter with the assistance of learned Senior Counsel. The said interim protection was extended from time to time till date. Apparently, it is a dispute between two brothers over inheritance of the properties left by Late Sh.Mohinder Singh Saathi. The proceedings reveal that the complainant is interested in getting his share being one of the legal heirs of the deceased. The petitioner has expressed his willingness in para 28 (J) to settle with the complainant and to pay him whatever he is claiming under the guise of inheritance of 1/7th of 79000 odd shares. The petitioner has joined the investigation on number of dates with the Investigating Officer. The dispute over inheritance of properties including shares is already pending in civil proceedings and no interim restrain order has been issued against the petitioner. The gift deed in question was relied upon by the petitioner in the written statement. The petitioner has raised doubt on the report of Forensic Science Laboratory about genuineness/ correctness of Forensic Science Laboratory report. No findings have been recorded so far in the civil proceedings that the gift deed filed in the said proceedings is a forged document.

7. Considering the peculiar facts and circumstances of the case referred above, the sisters of the petitioner & complainant- other legal heirs of the deceased have not challenged gift deed, the shares have been transferred long back, it is a fit case to grant anticipatory bail to the petitioner. The application is allowed and the petitioner is admitted to anticipatory bail and in the event of his arrest, he be released on bail on furnishing personal bond in the sum of ` 5 lacs with one surety in the like amount to the satisfaction of the SHO/Investigating Officer with the condition that he shall join the investigation as and when required.

8. The bail application stands disposed of. Pending applications also stand disposed of. (S.P.GARG) JUDGE MARCH 14 2013 tr

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