

Rajesh Saini And Anr vs Govt. Of Nct And Ors on 10 May, 2023

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 3334/2023

RAJESH SAINI AND ANR

..... Petiti

Through: Mr. Neeraj Yadav, Advocate.

versus

GOVT. OF NCT AND ORS

..... Respon

Through: Mr. Tarang Srivastava, APP for t

State with SI Sonam, P.S.: Def

Colony.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% 10.05.2023 CRL.M.A. No.12514/2023 __(Exemption) Exemption granted, subject to just exceptions. Let requisite compliances be made within 01 week. The application stands disposed of.

CRL.M.C. 3334/2023 & CRL.M.A. 12513/2023 By way of the present petition under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C') the petitioners impugn order dated 20.02.2023 made by the learned Principal District & Sessions Judge, South-East District, Saket Court, Delhi in Criminal Revision Petition No.194/2022, whereby the learned Sessions Judge has upheld order dated 08.12.2021 made by the learned Metropolitan Magistrate in proceedings arising from case FIR No.181/2019 dated 11.10.2019 registered under sections 420/34 of the Indian Penal Code 1860 ('IPC') at P.S.: Defence Colony framing charges against the petitioners under sections 420/406/34 IPC.

2. Mr. Neeraj Yadav, learned counsel appearing for the petitioners submits, that as seen from the record, both the FIR as well as the chargesheet were filed only under section 420 IPC; and by a cryptic and completely unreasoned order, the learned Magistrate has proceeded to frame charges under sections 420/406/34 IPC based, as it were, on the consent of the accused. The relevant part of the order of the learned Magistrate reads as follows:

" ...

Arguments on charge heard.

Ld. Counsel for accused submits that charge for offence u/s 420/406/34 IPC is only made out. Ld. Substitute APP. For State does not object to the same. In view of the submissions, charge only u/s 420/406/34 IPC is made out against both the accused. Charge has been framed against the accused. ... "

3. Counsel submits that in this backdrop, instead of remanding the matter back to the learned Magistrate for re-consideration, the learned Sessions Judge has proceeded to formulate her own reasoning and has upheld the order of the learned Magistrate, on the basis of arguments which were never considered by the learned Magistrate in the first place.
4. Mr. Yadav further points-out, that the order made by the learned Sessions Judge is also far in excess of the jurisdiction of a revisional court under section 397 Cr.P.C.
5. Upon a prima-facie view of the matter, issue notice.
6. Mr. Tarang Srivastava, learned APP appears for the State on advance copy; accepts notice; and seeks time to file status report.
7. Upon the petitioners taking requisite steps, let notice be sent to respondent No.2 by all permissible modes, returnable for the next date.
8. Let status report/reply to the petition be filed within 06 weeks (of service); response/rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
9. Re-notify on 25th September 2023.
10. In view of the above discussion, further proceedings in C.C No. 5420/2021 arising from FIR No. 181/2019 pending before the learned Magistrate insofar as the petitioner is concerned shall remain stayed, till the next date of hearing.

ANUP JAIRAM BHAMBHANI, J MAY 10, 2023/ak