

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 19th OF MARCH, 2024

CRIMINAL REVISION No. 5360 of 2023

BETWEEN:-

NITESH SINGHAL S/O SHRI SHYAMLAL SINGHAL, AGED ABOUT 45 YEARS, OCCUPATION: BUSINESS VIHAR COLONY, DHAMNOD DISTRICT DHAR (MADHYA PRADESH)

.....APPLICANT

(SHRI NITIN PHADKE, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION DHAMNOD, DISTRICT DHAR (MADHYA PRADESH)

.....RESPONDENTS

(SHRI KAPIL MAHANT, PANEL LAWYER)

CRIMINAL REVISION No. 4946 of 2023

BETWEEN:-

- GOVIND @ ANKUR S/O SATISH KANSAL, AGED ABOUT 36 YEARS, OCCUPATION: BUSINESS R/O A.B. ROAD**
- 1. RAM MANDIR KE PASS GRAM GUJRI THANA DHAMNOD DISTT. DHAR (MADHYA PRADESH)**
 - 2. SATISH KANSEL S/O SITARAM KANSEL, AGED ABOUT 62 YEARS, OCCUPATION: BUSINESS R/O A.B. ROAD RAM MANDIR KE PASS GRAM GUJRI THANA**

**DHAMNOD DISTT. DHAR (MADHYA PRADESH)
 GOPALA @ MAYUR S/O SATISH KANSEL,
 AGED ABOUT 36 YEARS, OCCUPATION:
 3. BUSINESS A.B. ROAD RAM MANDIR KE
 PASS, GRAM GUZRI THANA DHAMNOD
 JILA DHAR (MADHYA PRADESH)**

.....APPLICANTS

(SHRI ASHISH GUPTA, WITH MS.KAJAL RAGHUVANSHI, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH
 STATION HOUSE OFFICER THROUGH
 POLICE STATION DHAMNOD DISTT. DHAR
 (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI KAPIL MAHANT, PANEL LAWYER)

*These revision coming on for order this day, the court passed
 the following:*

ORDER

1. This order shall govern the disposal of both these criminal revisions (CRIMINAL REVISION No. 5360/2023 and CRIMINAL REVISION No. 4946/2023) as they have arisen out of the same Crime No.342/2021 registered at Police Station – Dhamnod District Dhar.
2. Both these revisions have been filed by the applicants under Section 397 read with Section 401 of the CRPC against the order dated 11.09.2023, passed by the Additional Sessions Judge to Sessions Judge, Dharampuri District Dhar in S.T.No.43/2023 arising out of Crime No.342/2021; whereby, the learned judge of

the trial Court has framed the charges against the applicants under Sections 120-B, 420, 420/120-B, 409,409/120-B,467,467/120-B, 468,468/120-B, 471,471/120-B of the Indian Penal Code, 1860 (hereinafter to be referred to as “IPC”).

3. In brief facts of the case are that in the first quarter of 2021, the applicants namely Govind, Satish and Gopal (in CRR.No.4946/2023) entered into various transactions with the farmers on the pretext that they are the agent of Eklavya Trading Company, of which applicant Nitesh Singhal (IN CRR.No.5360/2023) is the proprietor, and after purchasing huge quantity of food grains, the amount agreed to be paid by the applicants was not paid to the farmers despite the fact that the delivery of the food grains was obtained by them. The FIR was lodged on 14.5.2021, and charge sheet was filed under Sections 420, 406,120 (B) of IPC only. Whereas, learned judge of the trial Court has framed the charges under Section 120-B, 420, 420/120-B, 409,409-B,467,467/120-B,468,468/120-B,471,471/120-B of IPC. The impugned order has been challenged by the applicants on the ground that no case under Section 467, 468 and 471 of IPC is made out against the applicants as there is nothing on record to suggest that the applicants have committed to any forgery with the farmers.

4. Counsel for the applicants have submitted that various receipts which the applicants have issued are admitted by them that they have purchased the food grains from respective farmers,

however, only because of Covid-19 they could not further sell the food grains obtained from the farmers, and thus, they had no money to pay the farmers which led the cheques issued by them to be dishonoured. It is also submitted that civil suits has also been filed by the farmers for recovery of the amount, and thus, it is submitted that the revisions be allowed, and the charges so far as it relates to section 467, 468,471 of IPC be set aside.

5. Counsel for the respondent/State on the other hand has opposed the prayer, and has submitted that no case for interference is made out as the applicants had entered into a transaction with the farmers on the pretext that they are registered agent of Eklavya Trading Company(petitioner-Nikhil Singhal), hence, a case of forgery is made out, and no illegality has been committed by the learned judge of the trial Court in framing charges under sections 467, 468,471 of IPC.

6. Heard. Having considered the rival submissions, on perusal of the documents filed on record including the charge sheet, this Court finds that so far as the receipts are concerned none of such receipts bear the seal of the applicant's (Nikhil Singhal's) Firm namely Eklavya Trading Company, and there is also no endorsement that the petitioners are entering into contract being authorised agent of the Mandi Samiti.

7. It must be kept in mind that an offence of cheating under Section 415 is different than an offence of forgery under Section 463 of IPC. Broadly speaking, in the case of cheating simpliciter, deceiving, fraudulently or dishonestly inducing a person is involved, to the exclusion of forgery of any document or electronic record, whereas, in the case of forgery, the essential ingredients are falsification of documents or electronic record with intent to commit fraud.

8. In such circumstances, when the aforesaid receipts are already admitted by the applicants, it cannot be said that any forgery was committed by them while issuing those receipts. In such circumstances, charges under Section 467, 468, 471 of IPC are apparently not made out, and accordingly, the impugned order of framing charges dated 11.9.2023 is hereby modified to the aforesaid extent.

9. With the aforesaid observation, **both the revisions stand allowed and disposed of**, and the learned judge of the trial Court is directed to proceed further in respect of the remaining charges against the applicants in accordance with law.

10. Revisions stand *disposed of*.

(SUBODH ABHYANKAR)

JUDGE

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