



2024:DHC:9853-DB



\$~47

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 20.12.2024

+ CRL.A. 1184/2024
SALIM MALIK

.....Appellant

Through: Mr.Bilal Anwar Khan,
Ms.Anshu Kapoor, Adv.

versus

STATE (NCT OF DELHI) & ANR.Respondents

Through: Mr.Amit Prasad, SPP,
Ms.Ruchika Prasad,
Mr.Ayodhya Prasad,
Ms.Chanya Jaitly, Mr.Saravjeet
Singh, Adv. with
Mr.P.S.Kushwah, Addl. CP
(Special Cell), Insp. Anil
Kumar, Special Cell.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CRL.M.A. 37717/2024 (Exemption)

1. Allowed, subject to all just exception.

CRL.A. 1184/2024 & CRL.M.A. 37716/2024

2. This appeal has been filed challenging the Order dated 06.12.2024 (hereinafter referred to as 'Impugned Order') passed by the learned Additional Sessions Judge-03, Shahdara District, Karkardooma Courts, Delhi, in SC Case No.163/2020, titled *State v. Salim Malik*, directing that a copy of the said order be sent to the



2024:DHC:9853-DB



Commissioner of Police to look into the allegation of forgery in the medical prescription dated 24.11.2024 purported to be of the wife of the appellant herein.

3. As a brief background, the appellant had applied for *interim* bail claiming therein that his wife has been prescribed 13 days rest by Dr.Jaya Prakash, a Junior Resident at Guru Teg Bahadur Hospital, Delhi.

4. The learned Trial Court directed the respondent to verify the above documents.

5. In the verification report dated 02.12.2024, it was however, recorded that the doctor had not advised rest to the patient as mentioned in the prescription slip.

6. The appellant withdrew his *interim* bail application, however, the learned Trial Court passed the above direction that a copy of the order to be sent to the Commissioner of Police to look into the alleged forgery in the medical prescription.

7. The learned counsel for the appellant submits that once the bail application had been withdrawn by the appellant, there was no occasion for the learned Trial Court to have sent the medical prescription for verification/investigation to the Commissioner of Police. He further submits that the learned Trial Court, even if it had come to the *prima facie* opinion that the document is forged, should have been to proceed be in terms of Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, 'BNSS').

8. On the other hand, the learned counsel for the respondent, who is appearing on advance notice of this appeal, submits that that Section



215 of the BNSS would not be applicable to the facts of the present case. He places reliance on the Judgment of the Supreme Court in *Iqbal Singh Marwah v. Meenakshi Marwah*, (2005) 4 SCC 370.

9. We have considered the submissions made by the learned counsels for the parties.

10. As far as the plea of the appellant that he had withdrawn the application seeking *interim* bail and therefore, no further action was required to be taken by the learned Trial Court, is concerned, we cannot agree with the same. If a forged document has been filed before a Court, the Court should not shut its eyes, but direct that a proper investigation be conducted on the allegation of the forgery/interpolation in the document produced before it. The learned Trial Court by the Impugned Order has merely directed for an investigation to be conducted and no order adverse to the appellant has been passed as of now.

11. As far as the plea of the learned counsel for the appellant that the remedy would be in Section 215 of the BNSS is concerned, we again cannot accept the same.

12. In *Iqbal Singh Marwah* (supra) the Supreme Court has explained the contours of *pari-materia* provision being Section 195 of the Code of Criminal Procedure, 1973 as under:

*33. In view of the discussion made above, we are of the opinion that Sachida Nand Singh [(1998) 2 SCC 493 : 1998 SCC (Cri) 660] has been correctly decided and the view taken therein is the correct view. **Section 195(1)(b)(ii) CrPC would be attracted only when the offences enumerated in the said provision have been committed with respect***



2024:DHC:9853-DB



to a document after it has been produced or given in evidence in a proceeding in any court i.e. during the time when the document was in custodia legis.

13. Applying the above principle, the learned Trial Court has rightly sent the documents for further investigation to the Commissioner of Police, and further action on the same would have to be taken once the report of investigation is received. Presently, we do not find any reason to interfere with the Impugned Order.

14. The appeal along with the application is accordingly dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 20, 2024/Arya/VS

Click here to check corrigendum, if any