

IN THE COURT OF SHRI YASHDEEP CHAHAL
Metropolitan Magistrate-01 : New Delhi District : Patiala House Courts New
Delhi.

Complaint Case No. 45985/2016

M/s. Share Shoppe Vs. Rajendra Prasad Sharma

31.03.2023

Present: Shri Rishabh Jain, Ld. Counsel for Complainant.

Accused in person.

1. By this order, I shall ascertain the charges, if any, liable to be framed against the accused in this case.

2. The complainant has examined its AR Shri Anil Kumar as CW-1 in the pre-charge evidence.

3. The facts, in brief, reveal that the accused filled two spot sale orders dated 05.07.1995 and 08.09.1995 exhibited as Ex. CW-1/6 & Ex. CW-1/7 for the sale of certain quantities of shares of Gujarat Ambuja Cement Limited, representing himself as the owner of the shares. The accused himself signed the said forms, whereas the names of the holders of shares mentioned in the said forms are Shri Parmanand Sharma and Smt. Narayan Devi, who were parents of the accused. In lieu of the sale orders, two cheques were issued to the accused by complainant which were duly encashed by him. Later on, as deposited in the pre-charge evidence, the Registrar of Gujrat Ambuja Cements Limited declined to transfer the said shares on the ground that the signatures of the seller on the spot sale order forms did not match with the specimen signatures on the record of the company. It is alleged that the accused dishonestly and fraudulently signed the spot sale orders without having any

authority in that regard. It is further deposed that hundred of the said shares had already been attached by the Income Tax Department in light of the Harshad Mehta's Scam and the accused dishonestly tried to sell pre-attached shares by purporting to be someone else's.

4. Arguing this application, Ld. Counsel for the complainant submits that the accused was not a lay man and was aware that he was not the share holder of the said shares. He further deposed that the accused encashed the said cheques despite not being the lawful owner of the shares.

5. Per contra, accused submits that he only signed on the said forms at the instance of his parents and no case is made out against him.

6. Despite opportunity, the accused did not cross-examine the complainant.

7. Heard. Perused.

8. It is relevant to note that the stage of framing charges against the accused persons is indeed a crucial stage in the journey of a criminal proceeding as it allows the court to carefully look into the case of the prosecution, as discernible from the pre-charge evidence, and come to a logical conclusion regarding the charges on which the accused persons are liable to be tried. Notably, the satisfaction of the Court at this stage pertains to the material/evidence available against the accused in the pre-charge evidence and a detailed evaluation or consideration of the possible defence that the accused may take during the trial is impermissible at this stage.

9. I may usefully refer to the decision of the Hon'ble Supreme Court in *State Vs. R. Soundirarasu CRL Appeal No. 1452-53/2022*, wherein the Court observed that at the stage of discharge, the Court must afford an opportunity of hearing to both the parties and if it comes to a conclusion that the charges against the accused are "groundless", discharge must follow. Importantly, the Court goes to explain the meaning of the word groundless and holds it to mean something without any foundation or basis and finally, the Court lays down the test to be applied at this stage as:-

"The test which may, therefore, be applied for determining whether the charge should be considered groundless, is that where the materials are such that even if un rebutted, would make out no case whatsoever".

10. Thus, at this stage the consideration before me is whether the material in the pre-charge evidence, if un-rebutted, would establish the guilt of the accused or not. The pre-charge evidence reveals that the accused had actually signed on the sale orders despite having no authority to do so. It is nowhere declined that the accused did not accept the payment. Upon a question by the Court, the accused submitted that the signatures on the alleged forms belong to him, although he reiterated that he signed at the instance of his parents. Be that as it may, the un rebutted pre-charge evidence is not groundless and if duly proved in trial, may establish the guilt of the accused.

11. Accordingly, let charges be framed against the accused under Sections 420 & 468 of IPC.

Put up for framing of charges on **06.05.2023**.

(YASHDEEP CHAHAL)
M.M.-01 : PHC : NDD
31.03.2023.