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% 02.11.2010

Present: Mr. Sunil Bainsla, Adv. for the Petitioners.
Mr. M.P. Singh, APP for the State.

+ Crl. M.A. No. 17036/2010 (exemption)

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Allowed, subject to all just exceptions.

Application stands disposed of.

Crl. M.C. No. 3455/2010

Petitioners filed a complaint under Section 200 Cr.P.C. before the Additional Chief Metropolitan Magistrate (ACMM), Delhi praying therein that accused Geeta Sehgal, Manoj Godha, Vasundhra Godha and Aatiq Ahmed be summoned, tried and punished for having committed offences under Sections 420/447/448/467/468/471 and Section 120-B IPC.

A piece of land admeasuring 0-18 in Khasra No. 29 and 0-1 Bigha in Khasra No. 30 situated in the revenue estate of village Chandanholla, New Delhi is bone of contention between the parties. It is admitted that a civil dispute is pending between the parties regarding possession of this land.

It has also been brought to the notice of this Court that on the

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complaint of Manoj Godha FIR No. 10/2009 under Sections 447/506/34 IPC has been registered against the petitioners and their sisters at police station Fatehpur Beri. In the said FIR, complainant has alleged that it is the petitioners, who have trespassed in the land in question. As per the complaint filed before the ACMM by the petitioners, it is Geeta Sehgal and others, who have trespassed in the property in question, inasmuch as, claiming ownership rights therein, on the basis of forged and fabricated documents, i.e., General Power of Attorney, Will, Possession Letter, Agreement to Sell etc. allegedly executed by Smt. Ramjano, mother of the petitioners sometime in the year 1992. It is contended that Smt. Ramjano had not sold the land in question nor had executed any document and the land is still recorded in the revenue records in the name of petitioners and their late mother, who unfortunately died in the year 1997.

Along with the complaint an application under Section 156(3) Cr.P.C. was also filed praying therein that the SHO of the concerned police station be directed to register a FIR and investigate the matter. This application was dismissed by the ACMM on 25th May, 2010. As per the learned ACMM, no

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investigation was required by the police as the enquiry could have been conducted by the court itself by adopting the procedure as envisaged under Section 202 Cr.P.C.

Petitioners filed a Revision Petition before the Additional Sessions Judge, which came to be dismissed on 31st July, 2010. Learned Additional Sessions Judge was of the view that an investigation by the police was not required to be ordered in the facts of this case. It could have been ordered only if the documents were to be collected through the process of the investigating agency or where the accused were not known. The learned Additional Sessions Judge has placed reliance on Devarapalli Lakshminarayana Reddy vs. V. Narayana Reddy, reported in AIR 1976 SC 1672, Jamuna Singh vs. Bhadaai Shah, reported in AIR 1964, SC 1541, Gopal Das Sindhi vs. State of Assam, reported in AIR 1961 SC 986, Smt. Meenakshi Anand Sootha vs. State, reported in 2007 (4) JCC 3230 Delhi and Pawan Verma vs. SHO, P.S. Model Town and Ors., reported in 2009(2) JCC 1000 Delhi.

I find no reason to take a different view than what has been taken by the courts below in exercise of inherent powers of this Court. It is well settled that when a complaint is filed

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under Section 200 Cr.P.C., the same has to be dealt with in accordance with the procedure as provided under Chapter XV of the Cr.P.C. Investigation under Section 156(3) Cr.P.C. is to be ordered only after applying judicial mind in appropriate cases, where the accused persons are not known or the documents are not in possession of the complainant, which have to be collected only with the intervention of the investigating agency. In this case, all the facts are within the knowledge of the complainants, inasmuch as all the documents are in their possession. That apart, it is clear that civil litigation is also pending between the parties over the plot in question. Both the parties are claiming ownership rights over the property in question.

For the foregoing reasons, petition is dismissed being devoid of merits.



A.K. PATHAK, J.

NOVEMBER 02, 2010

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