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

Judgment delivered on: 9th October, 2015

+ CRL.M.C. 4172/2015

RAISA BEGUM

..... Petitioner

Represented by: Mr. H.R. Khan Suhel,
Mr. Ankit Mishra, Mr. Samar Khan and
Mr. Abhishek Bakshi, Mr. Minnat Vvalh,
Mr. Mustafa Mumtaz and Mr. Mohammad Bilal,
Advs.

versus

STATE

..... Respondent

Represented by: Mr. Izhar Ahmad, APP for
State.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A. 14942/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

+ **CRL.M.C. 4172/2015**

1. Vide the present petition, petitioner seeks directions thereby setting aside the order dated 19.08.2015 passed by Id. MM, Rohini Courts, Delhi and consequently directs the Police to register an FIR in the case and investigate the matter as per law.

2. The facts of the case in brief are that on 29.08.1970, 4/9th share of property Khasra No. 299/226 measuring 48 Bighas and 19 Biswas was released in favour of Sh. Aftab Ahmad (husband of the petitioner) and his

uncle Sh. Gulam Mustafa. The Jamabandi record of 1991-92 shows that the petitioner was the co-owner of the property. Thereafter, to utter surprise of the petitioner on 18.11.2005 a false and fabricated sale deed was executed, by personating petitioner and Haji Mohd. Ismail, in favour of Smt. Mamta Jain for the portion of land *ad-measuring* 10½ Bigha out of Khasra No. 299/226 situated in Village Mukundpur, Tehsil-Civil Lines, District-North, Delhi whereas, Lt. Haji Mohd Ismail expired on 01.09.1996.

3. Thereafter, on 22.11.2005, another false and fabricated sale deed by personating the petitioner and her husband was executed in favour of Smt. Raj Kumari for the portion of land *ad-measuring* 10½ Bigha out of the Khasra mentioned above. Accordingly, petitioner made a complaint to SHO, PS-Bhalaswa Dairy through Smt. Sufia Ismail and Smt. Arabia Khan regarding the execution of false and fabricated sale deed as mentioned above. Thereafter on 26.03.2012, another complaint was sent by the petitioner to Deputy Commissioner of Police (North).

4. On 22.11.2012 another complaint was filed before Deputy Commissioner of Police (North) by the petitioner through Gulam Mohd. and Arabia Khan stating inter alia that the applicant had not received any action taken report on the previous complaints.

5. On 03.03.2013, the petitioner filed another complaint before the Commissioner of Police containing the copies of previous complaints. Thereafter on 13.05.2013, the petitioner through her power of attorney holder filed an application before Id. MM, New Delhi seeking directions to the police under Section 156 (3) Cr.P.C. for registration of FIR. Same

was dismissed vide order dated 17.04.2014 and directed the petitioner to proceed with Section 200 Cr.P.C.

6. Being aggrieved, the petitioner challenged the aforesaid order before this Court by preferring Crl.M.C. 3186/2014. Same was allowed vide order dated 21.05.2015 thereby quashing the impugned order dated 17.04.2014 passed by Id. MM. Accordingly, the petitioner approached the trial court for passing a fresh order. However, having the shelter of the judgment passed by the Apex Court in the case of ***Priyanka Srivastava and Anr. v. State of UP and Ors. 2015 6 SCC 287***, the complaint of the petitioner filed under Section 156 (3) Cr.P.C. was dismissed on 19.08.2015 being not maintainable for the reason that the petitioner has failed to place on record the receipt regarding the sending of the complaint to the DCP concerned to comply with Section 154 (3) Cr.P.C. despite specific order dated 04.08.2015.

7. Ld. Counsel appearing on behalf of the petitioner has drawn the attention of this Court to the copy of the complaint filed by the petitioner before the Commissioner of Police (Delhi Police Headquarter) on 03.03.2013, which is at Page 207 of the petition and the acknowledgement thereto of 04.03.2013. Thus, the order passed by the Id. Trial Court is contrary to the record produced by the petitioner. Moreover, the case of ***Priyanka Srivastava (Supra)*** did not give any bar to the Magistrate to direct for lodging the FIR under Section 156 (3), however the said judgment is given just to stop any misuse or harassment caused to the other side.

8. Keeping in view the facts recorded above and the submission of the

counsel for the petitioner and the allegations made in the complaint which are very serious in nature, I am of the opinion that a cognizable offence has been committed by the accused persons, who had executed the sale deed by impersonating the petitioner which can be unearth during investigation. Therefore, the investigation has to be carried out by the Police.

9. Consequently the order dated 19.08.2015 is set aside and the concerned SHO is directed to register the FIR and investigate the matter and report to the Id. Trial Court accordingly.

10. Accordingly, the petition is allowed.

Crl. M.A. 14941/2015 (for Stay)

Dismissed as infructuous.

SURESH KAIT, J

OCTOBER 09, 2015

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