

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

Date of hearing and Order : February 05, 2016

+ CRL.M.C. 513/2016
SURENDER SHARMA

..... Petitioner

Through: Mr. Rajat Sharma, Advocate

versus

THE STATE NCT OF DELHI & ORS

..... Respondent

Through:

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

ORDER

P.S.TEJI, J. (Oral)

Crl. M.A. No.2110/2016 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl. M.C. No. 513/2016

1. By this petition filed under Section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), the petitioner seeks directions to respondent No. 2 to register a case against respondent Nos. 3 to 9 under Section 420/467/468/471 read with

Section 34 of Indian Penal Code and for setting aside of the orders dated 30.01.2015 and 18.12.2015 passed by learned Metropolitan Magistrate -01, South, Saket, New Delhi and Special Judge (PC Act), CBI-01, Saket Court, Delhi, respectively.

2. The facts in brief are as under:-

“That the complainant (here-in-after referred as revisionist) has filed criminal complaint under Section 420/467/468/471 r/w Section 34 of IPC against the respondents on the ground that property no. 274-D, situated at Arjun Nagar, near Safdarjang Enclave, New Delhi was purchased by his grandfather late Sh.Man Singh. After the death of Sh.Man Singh the property was devolved upon his legal heirs. The complainant claimed himself to be one of the legal heirs being son of late Sh.Jagannath Sharma s/o late Sh.Man Singh. The complainant further alleged that the aforesaid property consist of 200 square yards out of which 50 square yards are in the possession of legal heirs of late Smt.Angoori Devi. In respect to the remaining 150 square yards, complainant alleged that the complainant is one of the co-owner of the same alongwith other LRs of late Sh.Man Singh. It has been further submitted that earlier the respondent no.1 to 4 have demolished the property in connivance with the builder (respondent no.9), qua which he has filed civil suit. Later on he came to know that respondent no. 7 and 8 Smt. Kartari Devi and Omvati have forged the sale deed 17.9.2012 by mentioning that

principal/owner are still alive and have not canceled/revoked any attorney and the reference has been made to Man Singh and Rai Chand Sharma, who expired in October, 1978 and 22.12.1999, respectively. On the basis of these submissions prayer has been made to summon all the respondents and to punish them in accordance with law. Alongwith the complaint, the revisionist has filed application u/s 156(3) Cr. P.C. seeking directions for the police to register the FIR. But the application was dismissed by Ld.MM vide impugned order.”

3. Counsel for the petitioner contended that the petitioner reported the matter to the Police Station Safdarjung Enclave, but the police did not take any action and he was compelled to file criminal complaint under Section 156(3) of Cr. P.C. before the learned Metropolitan Magistrate for directions to the concerned Police Station for registration of FIR against the respondent No. 3 to 9 under Section 420, 467, 468, 471, 34 of IPC. The learned Metropolitan Magistrate had dismissed the application while observing that there is no need for direction to the police to register the FIR. Petitioner preferred revision against the order passed by learned Metropolitan Magistrate, which was also dismissed vide order dated 18.12.2015.

4. I have heard the submissions made by counsel for the petitioner and gone through the contents of the complaint filed by the petitioner.

Perusal of the record shows that the complaint was filed by the petitioner alongwith list of witnesses showing himself as the only witness to the case.

5. The Court asked counsel for the petitioner as to whether he had exercised the remedy available to the petitioner under Section 154(3) of Cr. P.C. to approach the D.C.P. for seeking directions to the police for registration of the case. The answer was admittedly 'no'.

6. Perusal of the record also shows that the petitioner had no material with him and therefore he filed the complaint under Section 200 Cr. P.C. The learned Metropolitan Magistrate called for the status report, in which the police reported that during investigation it has been found that the present case is of a civil nature and no criminal act has been found to be made out. Considering the status report filed on behalf of the police, the learned Metropolitan Magistrate dismissed the application under Section 156(3) of Cr. P.C. of the petitioner vide order dated 30.01.2015 and took cognizance of the offence under Section 190 Cr. P.C.

7. Aggrieved by the aforesaid order passed by learned Metropolitan Magistrate, the petitioner approached the Revisional

Court under Section 397 of Cr. P.C. The Revisional Court did not find any illegality, impropriety or incorrectness in the order passed by learned Metropolitan Magistrate, therefore, finding no ground to interfere in the impugned order, the revision petition filed by the petitioner was dismissed.

8. During the course of arguments of the present petition, the counsel for the petitioner contended that the petitioner has no other material except his own statement.

9. In the facts and circumstance of the present case, this Court is of the considered opinion that the petitioner has failed to show any illegality or infirmity in the order passed by learned Metropolitan Magistrate as well as the Revisional Court. Finding no merit in the present petition, the same is hereby dismissed.

10. The present petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

FEBRUARY 05, 2016
pkb