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

+ **CRL.M.C. 2504/2016**

% **Decided on: 20th July, 2016**

RAJ KUMAR

..... Petitioner

Represented by: **Mr. Shahid Ali and Mr.
Umardraj, Advocates.**

versus

SURAJ BHAN & ORS

..... Respondents

Represented by: **None.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

Crl. M.A. No. 10777/2016 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 2504/2016

1. The petitioner filed a complaint before the learned Metropolitan Magistrate alleging therein that the father of the petitioner was the owner, in possession of several properties including a plot in Lal Dora of village Dhulsira admeasuring 260 sq.yards. After his father died on 10th April, 2000 the property devolved on his mother and four brothers including the petitioner and three sisters. On 10th/11th April, 2010 Suraj Bhan convened a meeting in his house on the pretext that some papers executed for partition of land belonging to late Jai Lal were in his possession where all the parties signed on the documents as required by Suraj Bhan. However, despite lapse of time since the property was not partitioned between the legal heirs, Suraj

Bhan was confronted. On 31st July, 2010 Suraj Bhan admitted that out of the total land of late Jai Lal he had already sold 100 sq. yards to Smt. Raj Bala on 10th September, 2005 vide registered Sale Deed.

2. In a civil suit filed seeking declaration, cancellation of documents, injunction and possession Suraj Bhan replied that out of 100 sq. yards sold to Smt. Raj Balal 50 sq. yards was ancestral property and 50 sq. yards was his self –acquired property and thus he sold the same in exchange of other plot which he was entitled to sell being the 1/4th share from the property of his father. As per the complaint the sale deed executed in favour of Raj Bala was for a sum of ₹50,000/- whereas the cost of land at that time was more than ₹7 lakhs and the sale deed did not mention that out of the 100 sq. yards being sold 50 sq. yards was acquired on account of being legal heir and 50 sq. yards was self acquired. Further it did not appear that any property was exchanged. Thus alleging connivance with Suraj Bhan, Raj Bala and her husband Ranbir, a complaint was lodged before the police on which no action was taken and thus a complaint case was filed before the learned Magistrate under Section 200 Cr.P.C. After the petitioner deposed on oath in sync with his complaint the learned Metropolitan Magistrate issued summons to Suraj Bhan for offence punishable under Sections 420/468/471 IPC however held that Raj Bala and Ranbir had no role to play as they are purchaser of the said land and no offence was made out qua them.

3. Aggrieved by this order of the learned Metropolitan Magistrate dated 7th October, 2015 not summoning Raj Bala and her husband Ranbir, the petitioner preferred a revision petition before the learned Additional Sessions Judge which was dismissed vide impugned order dated 22nd April, 2016. The learned Additional Sessions Judge also noted that the photocopy of the

certified copy of the cross-examination of Ranbir Singh in Suit No. 375/11/10 titled as '*Rajkumar vs. Ranbir*' cannot be considered by the learned Additional Sessions Judge as the same was neither produced nor proved in accordance with law. The learned Additional Sessions Judge noted that at this stage it cannot be assumed that the petitioner signed the document utilized by Suraj Bhan without going through the same. Further there was no role assigned to Raj Bala and Ranbir in execution of the aforesaid documents in relation to the partition of the property

4. Before this Court learned counsel for the petitioner urges that Raj Bala and Ranbir have been named in the complaint, the learned Trial Court erred in not summoning them which order was upheld by the learned Additional Sessions Judge.

5. As noted above it is not the case of the petitioner in the complaint itself that when Suraj Bhan called them, Raj Bala or Ranbir were present or they had any role to play in the so called partition. No material whatsoever has been placed on record to show that Raj Bala and Ranbir were conspirators with Suraj Bhan. Suraj Bhan has already been summoned by the learned Trial Court and on the material placed on record the Trial Court rightly did not summon Raj Bala and Ranbir for the offences alleged.

6. I find no infirmity in the order dated 7th October, 2015 passed by the learned Metropolitan Magistrate or the order dated 22nd April, 2016 passed by the learned Additional Sessions Judge.

7. Petition is dismissed.

(MUKTA GUPTA)
JUDGE

JULY 20, 2016
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