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

+ CRL.M.C. 2197/2016

SAVITA

..... Petitioner

Represented by: Mr. Ajay Chaudhary, Adv.

versus

SARITA & ORS

..... Respondent

Represented by: Mr. Hirein Sharma, APP with
SI Shri Gopal, PS Shakar Pur.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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28.09.2016

1. The petitioner filed an application under Section 156(3) Cr.P.C. before learned Metropolitan Magistrate through her attorney against respondent No.1 her sister, respondent No.2 the husband of respondent No.1, respondent No.3 the mother in law of respondent No.1 and two other respondents. She stated that her father Harish Chander Singh purchased a property bearing No.A-62, Krishan Kunj Extension, Laxmi Nagar, Delhi and died intestate on 11th May, 2003 leaving behind the petitioner and respondent No.1 as his legal heirs. Since the petitioner was living in Shillong (Meghalaya), she requested respondent No.1 to give her share in the property, who refused to deliver the same and thus the petitioner filed a suit for partition and possession of the properties left behind by her father in 2009. In the written statement, respondent No.1 took the plea that the above noted property had been sold by her to respondent no.3 who is her mother in law. Though no documents of the said sale were supplied however later on

a copy of the sale deed dated 17th August, 2009 was supplied to the petitioner wherein on the basis of a GPA of deceased father of petitioner, respondent No.1 sold the property to respondent No.3. Petitioner alleges that the GPA was a forged document and respondent No.1 entered into a sham transaction with respondent No.3 and respondent Nos. 4 and 5 witnessed the same knowing fully well that respondent No.1 was not the owner of the property. Thus, FIR was sought to be registered for the offences punishable under Sections 406/409/420/467/468/471/120B IPC.

2. Learned Metropolitan Magistrate vide the order dated 27th May, 2014 dismissed the application challenging which a revision petition was filed which was also dismissed by the learned Sessions Judge vide impugned order dated 30th May, 2015. Hence the present petition.

3. Learned Metropolitan Magistrate and learned Sessions Judge noted that the petitioner has not produced any document including copy of the GPA and in any case facts and identity of the accused was available and civil suit qua the same dispute was pending between the parties and thus no police investigation was required.

4. Challenging the impugned order which notes that the petitioner has not produced copy of the GPA, learned counsel for the petitioner submits that respondent No.1 did not file the same in the civil suit, thus the copy thereof was not available to him and since necessary documents are to be recovered from the accused, investigation by the police was necessary.

5. Accepting the case of the petitioner as alleged on the death of her father on 11th May, 2003 his power of attorney comes to an end and any sale transaction as a power of attorney holder thereafter would be meaningless. Further the documents in this regard which have been produced by the

respondents in civil suit can be summoned by the learned Trial Court and copies can be exhibited after seeing the original and in case the facts warrant on examination of the petitioner a limited inquiry under Section 202 Cr.P.C. can be conducted. As rightly held by the two Courts, the complaint does not warrant a full-fledged investigation by the police because all the facts are within the knowledge of the petitioner and whatever limited inquiry was to be conducted the same can be conducted under Section 202 Cr.P.C.

6. Since learned Metropolitan Magistrate has treated the application of the petitioner as a complaint under Section 200 Cr.P.C. and is proceeding with the matter, I do not find any reason to interfere with the two orders.

7. Petition is dismissed.

MUKTA GUPTA, J.

SEPTEMBER 28, 2016
‘v mittal’