

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

% Decided on: 17th August, 2016

+ **CRL.M.C. 2956/2016**

KAVITA DEVI YADAV & ANR Petitioner
Represented by: Mr. Anilendra Pandey, Mr.
Karunakar Mahalik, Advs.

versus

STATE GOVT OF NCT & ANR Respondent
Represented by: Mr. Kewal Singh Ahuja, APP
with SI Surenda Singh PS
Bindapur, SI Madhav Krishna
DIU/SWD.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

CrI.M.A.12709/2016

Exemption allowed subject to just exceptions.

CRL.M.C. 2956/2016

1. The petitioners Hira Lal Yadav and Kavita Devi Yadav filed a complaint under Section 200 Cr.P.C. against Naresh Singh Sirohi, Vijender Singh, Puran Singh and Suresh Singh Sirohi for offences punishable under Section 420/467/468/471/120B/34 IPC. After examining the complainants vide order dated 16th October, 2015 the learned Metropolitan Magistrate summoned all the four accused for offence punishable under Section 420 IPC.
2. Naresh Singh challenged the said order before the learned ASJ in CR No.31/15 titled as '*Naresh Kumar Vs. State and Ors.*' wherein vide the

impugned order dated 3rd May, 2016 the learned Trial Court discharged Naresh Singh. Hence the present petition.

3. In the complaint, the allegations against accused No.3 and 4 i.e. Puran Singh and Suresh Singh are that they represented to be the owner of House No.RZC-73, Shri Chand Park, Matiala House, Uttam Nagar, New Delhi (in short the property) and sold the same to the complainant for a total consideration of ₹3 lakhs, however till date they had been retaining the possession of the property. It was agreed that out of the total sale consideration ₹1,50,000/- was to be paid in cash and the balance of ₹1,50,000/- in installments within two years where after title documents were to be executed. After purchasing the property, the complainants even raised further construction on the first and the second floor, thus converting the property into a triple storied building. After paying the entire sale consideration in the year 2004, the complainant requested for execution of the title documents but accused No.4 i.e. Suresh Singh executed only a receipt dated 12th April, 2012 on a ₹20 stamp paper and handed-over a photocopy of the same retaining the original with him. Thus it was alleged that the accused No.3 and 4 Puran and Suresh Singh played fraud with the complainant. The only allegation against accused No.1 Naresh Singh was that in connivance with the accused No.2, 3 & 4 he got installed an electricity connection in the suit property in the name of complainant No.2 admitting her to be the owner of the property. An eviction petition was filed under Section 14(1)(e) read with Section 25(B) of the Delhi Rent Control Act, 1958 titled as '*Vijender Singh & Anr. Vs. Kavita Devi Yadav*' wherein warrant of possession was issued in favour of the accused No.1 and 2 and the petitioner No.2 was compelled to hand-over the peaceful possession of the

property in favour of the accused No.1 and 2 i.e. Naresh Singh and Vijender Singh. FIR was also registered at PS Bindapur against the petitioners alleging that electricity connection was installed on the property on the basis of forged documents.

4. Both the petitioners were examined wherein the allegation against Naresh Singh were that he in connivance with the counsels obtained a decree of eviction fraudulently from the Court against which an appeal is pending. The learned revisional Court vide the impugned order noted that there was no inducement or misrepresentation with regard to the sale of the property by Naresh Singh when it was purportedly sold by Puran Singh and Suresh Singh. In the deposition of the petitioners, the only allegation against Naresh Singh is that he got the property vacated by filing an eviction petition and also got a FIR No.218/2011 registered at PS Bindapur. Thus no offence under Section 420 IPC being alleged against Naresh Singh he was discharged.

5. Considering the allegations in the complaint and statements of the witnesses, the learned Additional Sessions Judge committed no error in discharging Naresh Singh for the reason there was no misrepresentation on his part when the property was sold. The legal remedy of filing an eviction petition or getting registered a FIR cannot attract provision of Section 420 IPC.

6. Consequently, the petition is dismissed.

(MUKTA GUPTA)
JUDGE

AUGUST 17, 2016
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