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

\+ CRL.M.C. 4158/2016

REHMAN AFTAB ALAM ..... Petitioner

Represented by: Mr Vikramditya Bhaskar, Adv

versus

STATE (NCT OF DELHI) & ORS. ..... Respondents

Represented by: Mr Ashok Kumar Garg, APP with SI Anuj Kumar, PS Mayur Vihar, Delhi in person.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% **08.11.2016**

Crl.M.A.No.17337/2016

Allowed, subject to all just exceptions.

CRL.M.C. 4158/2016

1. The petitioner filed the complaint case under Section 200 Cr P C along with an application under Section 156(3) Cr P C before the learned Chief Metropolitan Magistrate alleging that the petitioner was married to the daughter of the respondent Nos.2 & 3 on 25.05.2005, whom he divorced on 21.01.2006. Since the financial conditions of the respondent No.2 was not good, he demanded money from the petitioner and in September, 2008 the respondent Nos.2 & 3 visited the house of the petitioner and told that they wanted to sell their house bearing No.34/144, Trilok Puri, Delhi and asked him to purchase it. The petitioner agreed to purchase it and entered into the agreement to sell dated 18.09.2008 for a total sale consideration of ₹ 7.60 Lakh, out of which ₹ 2.60 Lakh was paid as earnest money and the balance was to be paid at the time of execution of the sell documents. On

26.03.2009, the petitioner paid the balance amount of ₹ 5.00 Lakh and the respondents Nos.2 & 3 handed over the possession of the house by executing the GPA, Agreement to Sell, Receipts, Possession Letter, Will, Affidavit and Indemnity Bond etc.

2. The respondent Nos.2 & 3 sought time of six months to vacate the premises on the pretext that they were getting constructing their house at Aligarh. Thus, the petitioner allowed them to stay in the said house on a monthly rental of ₹ 2,800/- in respect of which the rent agreement was executed on 26.03.2009. When the petitioner asked the respondents to vacate the house, they showed their difficulty and thus, time was extended for a further period of six months. Again the respondents did not vacate the house and in this process, they continued to reside till 25.12.2012. However, thereafter also, they neither vacated the house nor paid the rent. On 25.12.2012, when the petitioner visited the house asking them to vacate it, they abused him and threatened to kill him in case he asked them to vacate the house. Thus, an eviction suit was filed. In the written statement to the suit, respondents filed the electricity bill in the name of Roshan Lal and the water bill in the name of Krishan Lal. It is, thus, claimed by the petitioners that the respondent Nos.2 & 3 were not the owner of the house in question and same was sold to him on the strength of the forged documents created by them.

3. In the written statement filed in the eviction suit, the respondents claimed themselves to be the owner of the property and owner of the house, thus merely because water and electricity bills are in the name of other persons it cannot be said that the respondent Nos.2 & 3 were not the owners

and forgery of documents was committed.

4. Considering the facts of the case, no directions were issued for registration of the FIR by the learned Trial Court and the matter was proceeded as a complaint case.

5. The statement of the petitioner was recorded as CW1 on 13.07.2015 besides two other witnesses. After going through the evidence of all three witnesses adduced on behalf of the petitioner, learned Trial Court dismissed the complaint vide order dated 22.12.2015 noting that no cognizable offence was made out and the dispute was essentially civil in nature between the parties.

6. The learned Trial Court also noted that the water and electricity bills were not conclusive proof of ownership and title to a property cannot be declared by a criminal court; which fell in the exclusive domain of the Civil Court. The petitioner preferred a Criminal Revision Petition before the Sessions Court, which was dismissed vide the impugned order dated 01.07.2016.

7. As noted above, the only ground on which the petitioner urges that the respondent Nos.2 & 3 have sold the property to him on the strength of the forged document is that the electricity and water bills were in the name of other persons.

8. Admittedly, in the written statement the respondent Nos.2 & 3 claimed themselves to be owner and merely on the basis of these two bills being in the name of the third persons, it cannot be held that the respondent

Nos.2 & 3 were not the owners of the property and had fraudulently sold it to the petitioner by creating forged and fabricated documents. The reasoning of the two Courts below cannot be faulted with.

9. Consequently, the petition is dismissed.

MUKTA GUPTA, J.

NOVEMBER 08, 2016
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