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

\+ W.P.(CRL) 160/2017

KIRAN JHANJI

..... Petitioner

Through: Mr. Somnath Bharti & Mr. Kunal Anand, Advocates.

versus

STATE & ORS.

..... Respondents

Through: SI Mohit Parkash, PS- Hari Nagar, for the State.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

% **18.01.2017**

1. The petitioner has preferred the present writ petition to seek a direction to respondents No.1 to 3, i.e. the police authorities to register a First Information Report under Sections 420/ 468/ 471/ 120B IPC against respondents No.4, 5 & 6, who are the State Bank of Patiala and its two official employees.

2. The case of the petitioner is that the petitioner had obtained a loan from respondent No.4 bank and mortgaged the property bearing No. RZ-1122, Gali No.14/5, Sadh Nagar, Palam, New Delhi in respect of the said housing loan of Rs.7,41,775/-, which was obtained under a loan agreement

dated 11.06.2004. The petitioner states that she could not repay the said loan on account of financial crisis. The petitioner claims that without following the procedure prescribed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the respondent No.4 bank sold the said property in public auction. The petitioner has grievance with regard to the valuation of the said property and the price at which the said property was sold.

3. The petitioner states that the respondent No.4 bank has also initiated a civil suit for recovery of Rs.3,38,853/- against the petitioner and his family members and in the said suit, the bank has relied upon a balance confirmation-cum-acknowledgement of security letter dated 01.05.2005. According to the petitioner, the said balance confirmation letter does not bear her signatures and the same has been forged and fabricated to bring the suit within the period of limitation.

4. The petitioner has already preferred an application under Section 156(3) Cr.P.C., which is pending consideration before the learned Metropolitan Magistrate. Learned counsel for the petitioner submits that the said application has remained pending since 03.11.2012. The same has not been disposed of till date by the learned Magistrate. Consequently, the petitioner has preferred the present writ petition raising her aforesaid grievances.

5. The petitioner also seeks a direction that once the FIR is registered, the matter be transferred for investigation to the Crime Branch or DIU for

fair and expeditious investigation of the petitioner's complaint.

6. Learned counsel for the petitioner submits that the sale of the petitioner's property for Rs.6 Lakhs in a public auction, even though the distress value of the property has been assessed as Rs.6,88,000/- and the conservative market value was Rs.7,80,000/-, is fraudulent. He submits that the petitioner was not put to notice of the said sale and she learnt of the sale only upon receiving summons in the aforesaid suit for recovery of the balance amount.

7. On a query by the Court, learned counsel for the petitioner states that the sale has never been challenged by the petitioner even after allegedly learning about the same upon receipt of summons in the suit.

8. The further submission of learned counsel for the petitioner is that the respondent bank is resorting to a scam of selling properties in collusion with interested persons at lower values.

9. Having heard learned counsel for the petitioner, I am not inclined to entertain the present petition. So far as the petitioner's submission with regard to the alleged irregularity in the sale of her property is concerned, it was open to the petitioner to take appropriate steps in that regard which, admittedly, have not been taken.

10. So far as the petitioner's grievance with regard to the so-called scam is concerned, if the petitioner is so minded, she could have preferred a Public Interest Litigation in that respect. The same cannot be a subject matter of the present writ petition.

11. Even on a perusal of the reliefs sought in the petition, the same are focussed upon the petitioner's allegation with regard to the alleged forgery and fabrication of her signatures on the balance confirmation letter. In respect of the alleged forgery and fabrication of her signatures on the balance confirmation letter, the petitioner has already initiated proceedings under Section 156(3) Cr.P.C., which are pending before the learned Magistrate. Considering the fact that the said proceedings are pending since November 2012, this petition is disposed of with a direction to the learned Magistrate to proceed and dispose of the said proceedings at the earliest and preferably within the next three months of the next date of hearing. Neither party shall be granted any undue adjournment before the learned Magistrate.

12. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

JANUARY 18, 2017

B.S. Rohella