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

+ **CRL.M.C. 2974/2017**

RAJ VEER SINGH

..... Petitioner

Through: Mr. Roopansh Purohit, Adv.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Amit Gupta, APP for State with
SI Mohit, P.S. Kapasehra.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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21.09.2017

1. Petitioner had filed a complaint under Section 200 of the Code of Criminal Procedure, 1973 (the Code, for short) against the respondent no.2, before the Metropolitan Magistrate, praying therein that respondent no.2 be summoned and punished for the offences punishable under Sections 420/448/468/506 IPC. After petitioner led pre-summoning evidence, learned Metropolitan Magistrate ordered for summoning of the respondent no.2. Petitioner was allowed to lead pre-charge evidence. Petitioner examined 7 witnesses which included officials from the Revenue Department and Sub Registrar's office. Learned Metropolitan Magistrate sifted and weighed the evidence, which had come on record, and vide order dated 27th April, 2015 held that no material was available on record to

support the allegations of the complainant (petitioner), thereby disclosing a prima facie case, for commission of the offences alleged in the complaint, consequently, discharged the respondent no.2.

2. Petitioner preferred Revision Petition under Section 397 of the Code before the Additional Sessions Judge, Delhi which has been dismissed vide order dated 11th April, 2017.

3. That is how petitioner is before this court by way of present petition under Section 482 of the Code.

4. There are two concurrent findings of the Trial Court as well as Revisional Court, on appreciation of the evidence adduced by the petitioner. Petitioner alleged in the complaint that on 18th July, 1990, respondent no.2 had sold one plot bearing no. 147 forming part of Khasra No. 53/1, Village Dhulsiras, Delhi to him vide General Power of Attorney (GPA), Agreement to Sell, Receipt etc., inasmuch as, handed over the possession thereof to him. Construction could not be raised as a stay order passed by the High Court was operating in respect of the plot. In the month of January, 2007, petitioner went to see his plot when he found respondent no.2 present there. He told him that the said plot was numbered as 257/1/2/2/1 and not plot no. 147. Petitioner alleged that respondent no.2 had sold him the plot which did

not exist. Petitioner also alleged that forged allotment letter, possession letter and LR form purportedly, issued by the Gram Sabha, were handed over to him by the respondent no.2 at the time of sale.

5. Trial Court and Revisional Court have noted that petitioner had examined himself as CW1; Sh. Ravinder Kumar Jain and Smt. Basanti Devi as CW2 and CW3 respectively, to prove the sale transaction. Sh. Mukhtar Mahto, Record Keeper from the Sub Registrar Office was examined as CW4 to prove the Receipt dated 18th July, 2009 as Ex. CW4. CW5-Sh. Bhrampal Singh had proved the LR form no. 37 receipt no. 2412 dated 20/11/1986 as Ex. CW5/A. Sh. Surat Singh, Patwari was examined as CW-6 who proved the Khatoni Ex. CW6/A in respect of Khasra No. 53/1, 20 Point Colony, Village Dhulsiras, Delhi. CW6 also proved the fact that the said Khasra was earlier acquired by the Govt. vide order dated 24th October, 2002. Sh. Daya Nand, Record Incharge, SDM Office, Najafgarh, New Delhi was examined as CW-7. He proved the Rapat Roznamcha Village Dhulsiras, Delhi for the year 1986-87 as Ex. CW7/A. This exhibited document contained list of allottees of the plots along with plot and khasra numbers.

6. Trial Court has held that LR form no. 37 dated 20th November, 1986 was alleged to be forged, however, the said form was proved as Ex. CW5/A.

It is noted that CW5/A is the official record of land revenue department. Trial court has noted that the form was indeed in respect of plot no. 147. This document proved that as on 20th November, 1986, plot no. 147 did exist. In view of this document, the allegation of petitioner that respondent no.2 had sold a non-existent plot, on the basis of forged documents, was belied. CW6 Sh. Surat Singh Patwari proved the Khatoni in respect of Khasra No. 53/1 which indicated that the said Khasra was acquired by the Government on 24th October, 2002 and with effect from the said the plot vests in Gram Sabha. The said document did not support the allegations of the petitioner at all. Petitioner further alleged that the allotment letters Ex.CW1/5 and possession letter Ex.CW1/6 were forged by the respondent no.2. However, no evidence in this regard was led by the petitioner to prove this fact. Revisional Court has noted that there were contradictions in the version of the petitioner's witnesses, that is, CW-2 Ravinder Kumar Jain and CW-3 Basanti Devi. Petitioner had alleged that the entire sale consideration was paid in presence of these witnesses. It was further alleged that respondent no.2 did not hand over possession of the plot despite entire payment had been made. Respondent no.2 had taken a plea that he did not sell the said plot but had only executed GPA in favour of the petitioner. He

contended that he had borrowed money from the petitioner and executed GPA of the plot to secure this loan. Later borrowed amount was repaid by him. Revisional Court has held that though CW2 Ravinder Kumar Jain and CW3 Basanti Devi, in their examination in chief, had claimed that respondent no.2 had sold the plot to petitioner in their presence, inasmuch as, documents were also executed in their presence. However, in his cross-examination, CW2 stated that he does not know about the execution of the documents except that the payment was made in his presence. He further deposed that he did not put his signatures on the documents. Similarly, CW3 Basanti Devi, in her cross-examination, deposed that she was not aware from whom the petitioner/complainant had purchased the said plot and also that she had only seen the documents as the same were prepared in her presence.

7. I have perused the material placed on record and the judgments of the Trial Court as well as Revisional Court and am of the view that findings recorded by the courts are in conformity of the evidence lead on record. None of the witnesses except the petitioner has deposed that documents were forged by respondent no.2. The Govt. officials have not supported this plea. They have nowhere stated that LR form or any other form was forged.

Petitioner had claimed in the complaint that he was handed over possession, however, no documentary evidence in this regard is there on record. Petitioner did not take any step to get the plot mutated in his name for such a long time, which is very unusual. No person, who purchases any plot of land will keep mum. A prudent person will certainly take steps to get the same mutated in the revenue record/municipal record etc. to secure his title. Petitioner has also not taken any step pursuant to this Government order dated 24th October, 2002 whereby plot in question was acquired by the Government.

8. It is noted that the documents do not contain the signatures, either of CW2 Ravinder Kumar Jain and CW3 Basanti Devi, as witnesses. It is also noted that the receipt (Ex. CW4/1), only reflects the amount of ₹50,000/- received by the respondent no.2 but does not mention that the amount was paid towards the purchase of any plot. It is also noted that no Govt. witness has deposed that LR form or any other form was forged and fabricated document. There was some cutting in the documents Ex. CW1/5. However, similar cutting were found in other documents produced by the revenue authority and same were also taken on record.

9. In view of the above discussions, petition is dismissed. Miscellaneous

application is disposed of as infructuous.

SEPTEMBER 21, 2017

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A.K. PATHAK, J.