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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4015/2016 and CrI. M.A. 16794/2016, 4606-4607/2018
MANBIR SINGH OBEROI Petitioner

Through: Mr. Pradeep Jain, Mr. Kunal Prakash
and Mr. Rishab, Advocates

versus

STATE & ANR. Respondents

Through: Mr. Ravi Nayak, APP for the State with
SI Amit Solanki
Ms. Amrit Kaur Oberoi, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **13.09.2018**

The second respondent (complainant) is the mother of the petitioner, he being an ordinary resident of Italy. She alleges in the complaint, which is now subject matter of investigation into FIR no.761/2016 of police station Vasant Vihar involving offences punishable under Sections 420 and 506 IPC that the petitioner was instrumental in fabrication and forgery of document in the nature of gift deed which was registered before the Sub-Registrar on 10.08.2004. The petitioner is one of the three sons of the second respondent. It is not disputed that the property described as A-16/4, Vasant Vihar, New Delhi was originally owned by late Sh. Parshotam Singh, husband of the second respondent and father of the petitioner. It is also not disputed that late Sh. Parshotam Singh had left behind a Will in terms of which the title in the property devolved on the complainant. Though it is the petitioner's case that there was some

reference to he succeeding the interest in the property if the mother (complainant) were to predecease, such stipulation in the Will of late Sh. Parshotam Singh admittedly became inconsequential. The property admittedly was mutated in the name of the second respondent after the death of her husband.

In the complaint (CC no. 266/01/16), she alleged the gift deed relied upon by the petitioner to have been forged and fabricated. The petitioner undoubtedly claims to the contrary.

All that the Metropolitan Magistrate has done by the impugned order dated 29.06.2016 on the complaint (CC no.266/01/16) of the second respondent is to call upon the police to carry out an investigation into her allegations. The issues of facts arise. It does appear that there has been a civil litigation involving the subject property in which some pleadings on the part of the complainant may be relevant to the controversy. But, the fact remains that the core issue as to whether the gift deed in question is a product of forgery and fabrication calls for inquiry and probe.

From the above perspective, the order of the Metropolitan Magistrate dated 29.06.2016 exercising the power and jurisdiction under Section 156(3) Cr. PC cannot be faulted. The jurisdiction under Section 482 Cr. PC cannot be used to address the issues of fact of such nature without a proper probe by appropriate agency. [see : *Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330*]

The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

SEPTEMBER 13, 2018

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CRL.M.C. 4015/2016

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