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

+ **CRL.M.C. 3257/2017**

M/S NARAIN RAJ KUMAR Petitioner
Through **Mr. Kunal Kalra, Adv**

versus

STATE & ORS Respondents
Through **Ms. Aashaa Tiwari, APP for State**
Mr. T S Ahuja, Adv for R-2

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **05.10.2018**

Petitioner filed an application under section 156 (3) Cr.P.C. before the Trial Court which was dismissed on 19.08.2016. Petitioner preferred revision petition under section 397 Cr.P.C. before the learned Additional Sessions Judge which was also dismissed vide order dated 7th April, 2017.

That is how petitioner is before this Court by way of present petition under section 482 Cr.P.C.

Second Revision is barred under section 397 (3) Cr.P.C. Though, petition under section 482 can be entertained but only in exceptional and rare cases and not in a routine manner. High Court in exercise of its inherent jurisdiction can entertain second revision petition only if shown that impugned order had resulted in miscarriage of justice. In this case, no such exceptional circumstances could be shown.

Petitioner is brother of respondent no.2. Petitioner has alleged that property bearing No.Y-10, Loha Mandi, Naraina, Delhi was owned by partnership firm namely M/s. Sri Narain Raj Kumar, wherein he was one of the partners. Respondent no.2 had no concern with the said firm. Despite this, respondent no.2 sold a portion of the aforesaid property to one Sh. Umesh K Garg. On the complaint of Mr.Umesh K Garg, FIR No.300/2005 under section 420 IPC was registered at police station Naraina, but was subsequently quashed by this Court in view of the settlement arrived at between respondent no.2 and Mr. Umesh K Garg.

Respondent no.2 again sold one portion of the aforesaid property to one Mr. Mahender K Gupta on the basis of false and fabricated documents. Petitioner's complaint to police did not result in registration of FIR. Accordingly, application under sections 156 Cr.P.C. was filed.

Learned counsel for the respondent no.2 submits that respondent no.2 is partner in the firm since 1985. His mother was also partner in the firm till 2005 when the aforesaid portion was sold to the wife of Mahender K Gupta.

Be that as it may, it is apparent from the above that disputes are between the brothers regarding the partnership firm M/s. Sri Narain Raj Kumar. It is also noted that the alleged sale took place on 9th September, 2005 but the application under section 156 Cr.P.C. has been filed in the year 2016, that is, after eleven years.

Learned counsel for petitioner submits that petitioner came to

know about the sale in the year 2016. It is quite unusual that petitioner, who claims to be a partner of the firm, would have remained unaware about the sale of property for 11 years. However, I need not dwell on this question.

All facts are within the knowledge of petitioner in as much as documents are also available with him. No police investigation is required to collect any evidence with the assistance of the police. Complaint under section 200 Cr.P.C. is pending before the learned Metropolitan Magistrate. Trial Court and Revisional Court have taken this view. I do not find any perversity in the view taken by the courts below.

For the foregoing reasons, petition is dismissed with costs of ₹20,000/- to be deposited by the petitioner with Kerala Chief Minister's Distress Relief Fund within one week. Registry shall not entertain any petition of the petitioner unless receipt evidencing deposit of cost is produced.

A.K. PATHAK, J

OCTOBER 05, 2018

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