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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 23rd October, 2018

+ CRL.M.C. 3232/2015

D R CHOUDHARY

..... Petitioner

Through: Petitioner in person.

versus

STATE (NCT OF DELHI) & ORS

..... Respondents

Through: Mr. Amit Ahlawat, APP for the
State

Mr. Amber Mishra, Adv. for

Mr. M.P. Sinha, Adv.

Mr. Rajendra, Adv. for Mr.

Hem Kumar, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner had filed criminal complaint (CC No.472/1/2008) against the second to fourth respondents alleging offences punishable under Sections 420/467/468/471/120-B of Indian Penal Code, 1860 (IPC) having been committed qua the property described as Plot No.AB-47, admeasuring 204.48 sq. yds., situated in Mianwali Nagar, New Delhi, which originally belonged to him. The prayer initially made was for the direction to the police for investigation into the case under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.). The said prayer was declined and the Magistrate held inquiry under Section 200/202 Cr.P.C. On the conclusion of the said

inquiry in which the complainant (the petitioner) appeared as his own witness (CW-1), the Metropolitan Magistrate by order dated 26.06.2014 found no case made out for the said respondents to be summoned as accused. The complaint was, thus, dismissed.

2. The petitioner challenged the said order in the court of Sessions invoking its revisional jurisdiction by petition (Crl.Revision No.87/2014) which was dismissed by order dated 23.05.2015. The said orders are under challenge by the petition at hand under Section 482 Cr.P.C.

3. The petition has been pending for the last three years, the petitioner having sought adjournments on each and every date. The request for yet another adjournment cannot, thus, be granted as there is no good reason why the matter should remain pending.

4. The submissions have been heard. The record has been perused.

5. The case of the petitioner as set out in the criminal complaint primarily was that since he was unable to look after the above mentioned property, he had executed two documents, one General Power of Attorney (GPA) and the other a Special Power of Attorney (SPA) which were registered on 31.12.1988 and 21.12.1988 with the Sub-Registrar, Noida both in favour of Chhabil Dass, the late father of the second respondent. It is also his case that he had later cancelled both the said instruments by executing cancellation deed dated 19.02.1999 which was duly registered with the Sub Registrar, Noida on 22.02.1999. He is aggrieved because the attorney (Chhabil Dass), in spite of due intimation on 25.02.1999 about the registration of cancellation deed on 22.02.1999, had executed certain documents

(GPA) in favour of the second and third respondents, in his submissions, intentionally and deliberately to cause wrongful loss to him and he would thereby term the documents thus executed to be forged and fabricated instruments. He is also aggrieved because of the mutation of the property in favour of the said private party respondents by Delhi Development Authority (DDA) that had executed conveyance deed dated 03.12.1999/22.12.1999, which was registered with the Sub-Registrar, Jankpuri on 22.12.1999, followed by transfer of electricity connection in their favour.

6. During the course of hearing on the revision petition before the court of Sessions, the private party respondents, having been duly noticed in compliance with the statutory requirements, participated and brought to light that besides the GPA and SPA executed by the petitioner in favour of Chhabil Dass, the petitioner had also executed two other instruments, one receipt acknowledging payment of Rs.5,00,000/- and the other a Will in his favour, the case of the private party respondents being that it was a case of sale rather than only an authorization to manage the property by attorney.

7. Be that as it may, this court finds, on appreciation of facts and the evidence which was adduced during the pre-summoning inquiry, that the dispute raised by the petitioner is essentially a civil dispute. On being asked, the petitioner fairly conceded that a civil suit on similar contentions and averments seeking cancellation of the instruments in favour of the opposite party is pending adjudication before the civil court, which now has reached the stage of final adjudication.

8. In the given facts and circumstances, this court refrains from making any observations vis-à-vis contentions of either side as to the nature of the transactions that was entered upon by the petitioner in respect of the said property in favour of Chhabil Dass on the basis of GPA and SPA. That would be a matter which would have to be adjudicated upon by the civil court where the issue is already *sub judice*. No criminal case can be found on the averments and the evidence which has been adduced in pre-summoning inquiry for the reason, as is highlighted by the revisioanl court in the impugned order, there is nothing showing any communication having been sent by the petitioner unto the private party respondents after execution and registration of the cancellation deed.

9. No case is made out for any interference by this court under Section 482 Cr.P.C.

10. The petition stands dismissed.

R.K.GAUBA, J.

OCTOBER 23, 2018

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