$~16

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 7th August, 2018

\+ CRL. M.C. 3923/2015

RUMAL BHARTI ..... Petitioner

Through: Mr. Trideep Pais & Mr. Pranav Jain, Advs.

versus

STATE & ORS. ..... Respondent

Through: Mr. Mukesh Kumar, APP for the State.
Mr. Vimal Puggal, Adv. for R-4, 5 & 6.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner had approached the court of Metropolitan Magistrate by application (CC No. 996/4/2015) seeking direction for investigation by the police into the allegations made by him against the private party respondents, they, in his submission, making out a case involving offences punishable under Sections 120B, 415, 420, 425, 447, 448, 454, 465, 467, 468, 471 and 506 of Indian Penal Code, 1860 (IPC). The Metropolitan Magistrate, by her order dated 14.05.2015, was of the view that the averments in the said application primarily revealed civil dispute, it being subject matter of a pending civil litigation. As regards the allegations of forgery and fabrication of certain documents, for claiming ownership of the subject property, in

which the petitioner claims to be the owner in possession on the strength of certain documents, and an attempt for his forcible dispossession, the Magistrate observed that the identity of the accused persons was known and relevant material was available with the petitioner. She thus, declined to grant any direction to the police under Section 156 (3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) and instead gave liberty to the petitioner to lead pre-summoning evidence, presumably under Section 200 Cr.P.C., fixing the case for such purposes for a later date.

2. The petitioner questioned the aforementioned order of the Metropolitan Magistrate before the Court of Sessions by petition (C.R. 32/2015) invoking its revisional jurisdiction. The District & Sessions Judge (West), by her order dated 05.08.2015, found no merit in the revision petition and endorsed the view taken by the Metropolitan Magistrate observing that it did not suffer from any jurisdictional or legal error.

3. The present petition invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C. has been filed to assail the above-mentioned orders of the two courts below.

4. Against the above backdrop, question arose as to whether the petitioner having availed of the remedy of revision should be allowed to have recourse to the petition at hand as a substitute for virtually a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C.

5. This Court in an almost similar fact-situation, taking note of the decisions of the Supreme Court reported as *Krishnan Vs. Krishnaveni,*

*(*1997*) 4 SCC 241; Rajinder Prasad Vs. Bashir, (2001) 8 SCC 522* and *Kailash Verma vs. Punjab State Civil Supplies Corporation & Anr., (2005) 2 SCC 571* and following similar view taken by a learned single Judge of this Court in *Surender Kumar Jain vs. State & Anr., ILR (2012) 3 Del 99* in absence of a special case being made has earlier declined to interfere by the ruling (dated 03.07.2018) in Crl.M.C. 164/2018 *Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

6. There are no special circumstances made out in the case at hand for the revisional court's view to be disturbed.

7. The petition is dismissed.

R.K.GAUBA, J.

AUGUST 07, 2018
nk