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

+ CRL.M.C. 483/2017

SANDEEP BHUTANI

..... Petitioner

Through

Mr. Harshbir Singh Kohli with Mr.
Munish Vohra, Advs.

versus

STATE & ANR

..... Respondents

Through

Mr.Panna Lal Sharma, APP for State.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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09.10.2019

Vide the present petition, the petitioner seeks direction thereby quashing the proceedings emanating from CC no. 538/1/13, Police Station, Bhajanpura pending adjudication before the Ld. Metropolitan Magistrate, Karkardooma, Delhi.

Learned counsel appearing on behalf of the petitioner submits that on bare perusal of the impugned order dated 17.11.2015 it is made clear that the Ld. Trial Court has failed to take notice of the fact that wife of the respondent no. 2 has unnecessarily dragged the mother in law of the petitioner in civil proceedings being Civil Suit No. 234/14, in which the learned Civil Court has been pleased to drop the proceedings against her mother in law by allowing the application under Rule 10 (2) CPC. Moreover, the Investigating Officer has thoroughly conducted inquiry in the complaint of the Respondent No. 2 and has not found any prima facie evidence against mother in law of the petitioner. However, the learned

Metropolitan Magistrate overlooked the aforesaid fact.

Learned counsel further submits that the essential ingredients of the section 190 of the Cr. P.C. has not been found in the impugned order dated 17.11.2015, therefore the said order cannot be said to be speaking order in strict sense and there is nothing on record to show that cognizance has been taken in the facts and circumstances of the case.

It is further submitted that the learned Trial Court has failed to comply with the scope of the enquiry as mandated under the code and has failed to ascertain the truthfulness of the complaint. It is ex-facie clear that the respondent no. 2 has instituted false and frivolous litigations on the subject matter of the property and respondent No. 2 with the ulterior motive has filed the complaint, without any basis, only for the purpose of harassing the petitioner.

Despite the notice served upon respondent no.2, neither counter affidavit/ reply has been filed to the petition nor anyone has appeared on behalf of respondent no.2.

In addition to above, as stated in the present petition, the respondent no.2 has sold the property in question to Ravindra Verma by registered sale deed and in turn said Ravindra Verma sold the same property to the mother in law of the petitioner by registered sale deed.

Since the respondent no.2 failed in civil suit against Ravindra Verma, therefore, the said respondent filed the complaint case mentioned above without establishing the fact that as to how mother in law of the petitioner has committed theft of the property in question.

In view of the facts above, I hereby set aside the impugned order dated 17.11.2015 passed by learned Metropolitan Magistrate.

The petition is, accordingly, allowed and disposed of.

SURESH KUMAR KAIT, J

OCTOBER 09, 2019

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