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

+ CRL.M.C. 4566/2016

SANDEEP SINGH BHATIA Petitioner

Through: Mr. N.S. Bhatia, proxy counsel.

versus

STATE Respondent

Through: Mr. Amit Ahlawat, APP for the State

CORAM:**HON'BLE MR. JUSTICE R.K.GAUBA****ORDER**% **15.01.2019**

The petitioner had instituted a complaint (CC No.99/1/2015) in the court of Chief Metropolitan Magistrate of West District at Tis Hazari Court, alleging offences, *inter alia*, under Sections 420/465/466/467/468/471/120-B of the Indian Penal Code, 1860 (IPC) having been committed by eleven persons shown in the array by their names and full particulars as prospective accused, they being his close relatives including real brother. Along with the said complaint case he had moved an application under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) to seek a direction to the police for investigation.

The Metropolitan Magistrate considered the said prayer but declines to grant any such direction dismissing the application by order dated 09.08.2016 at the same time taking cognizance and fixing the matter for pre-summoning evidence to be accused calling upon the petitioner (as the complainant) to assist in the inquiry under Section 200 Cr.P.C.

The present petition was filed taking an exception to the said order dated 09.08.2016 invoking the inherent power and jurisdiction of this court under Section 482 Cr.P.C.

Pursuant to the directions of this court respondent/State has filed status report. The prayer in the petition is resisted, the submission of the respondent/State being that the view taken by the Metropolitan Magistrate is correct and appropriate.

As is noted in the impugned order by the Metropolitan Magistrate, the dispute between the petitioner and the persons sought to be prosecuted by him arises out of the dispute over share in the ancestral property. It appears the parties had earlier gone to litigation in civil court in the wake of which a settlement deed came to be executed on 02.04.2011 and a decree was passed on 04.04.2011 by the court of Additional District Judge. The petitioner places reliance on gift deed dated 27.04.2011, which is a registered instrument in terms of which he claims to be lawful owner in possession of the part of the subject property (D-45, Rajouri Garden, New Delhi) w.e.f. 22.03.2016. It is alleged by him that in the records of the building department governing the subject property (apparently of the municipal authority) certain documents had come to be placed which were in the nature of false and forged general power of attorney (GPA) and special power of attorney (SPA), the objective of such documents created being to falsely confer authority on the persons sought to be prosecuted, to deal with the subject property and act on his behalf. It is also alleged by him that pressure was exerted by the municipal officials described as custodian of the

original records, in concert with the stakeholders in the subject property, to make him settle his personal dispute, he having been compelled to enter into and execute certain documents to relinquish his share by executing a settlement deed.

The Metropolitan Magistrate did not find good grounds to issue directions to the police to register an FIR. In the opinion of this court, the view taken by the Metropolitan Magistrate, against the above backdrop, was correct. The petitioner does profess to possess knowledge of all the requisite facts and also is in a position to bring on record all the requisite documents, which are in his possession, in support of his contentions. The dispute, on its face, appears to be more of a civil nature arising out of the previous litigation.

The Metropolitan Magistrate has already taken cognizance and called upon the petitioner to assist in the inquiry under Section 200 and 202 Cr.P.C. Nothing inhibits the petitioner from assisting the Metropolitan Magistrate to take his compliant case further or from seeking fresh direction to the police for investigation once the matter reaches the stage of Section 202 Cr.P.C.

This court finds no substance in the petition. It is dismissed.

R.K.GAUBA, J.

JANUARY 15, 2019

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