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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1524/2020, CRL.M.A. 8146/2020 & CRL.M.A. 8147/2020

MADHU VERMA alias MADHUBALA & ORSPetitioners

Through: Mr.Praveen Suri, Advocate.

Versus

STATE OF NCT OF DELHI & ORSRespondents

Through: Mr.Kamal Kumar Ghei, APP for State.
SI Rajeshwar Parmar, IO.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
24.06.2020

CRL.M.A. 8146/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 1524/2020 & CRL.M.A. 8147/2020

The respondent nos. 2 to 10 are not represented and the respondent no.2 is the complainant of a complaint under Section 156(3) r/w Section 190 of the Cr.P.C. for the alleged commission of offences punishable under Sections 420/467/468/471/415/406/120B/34 of the Indian Penal Code, 1860, with the petitioner nos. 1 to 3 herein to the present petition having been arrayed as the respondent nos. 1 to 3 to that complaint case with the other respondents mentioned therein as respondents no.4 to 10 to

the present petition CRL.M.C.1524/2020 having been arrayed as respondent nos. 5 to 11 in the complaint case.

Vide the present petition, the petitioners have sought that the order dated 07.01.2020 in Crl.Revision Petition No.203/2019 of the Court of the learned ASJ, South West District, Dwarka Courts, New Delhi be set aside.

Vide order dated 07.01.2020 in Crl.Revision Petition No.203/2019, the order dated 30.01.2019 of the learned MM, Dwarka Courts in CC No.2517/2019 titled as ***“Smt.Asha Soni Vs. Smt.Madhubala Verma & Ors.”*** whereby the application filed by the complainant under Section 156(3) of the Cr.P.C.,- was set aside with the learned Revisional Court having remanding back the matter to the learned Trial Court for rehearing of the application under Section 156(3) of the Cr.P.C. 1973 in terms of the observations made in the impugned order dated 07.01.2020.

Vide order dated 30.01.2019 in Complaint Case No.2517/2019 filed by Asha Soni arrayed as the respondent no.1 to the present petition, learned **Revisional Court** had *inter alia* observed to the effect:-

“After considering the entire material on record, this Court is of the considered view that investigation by police in this case is not required as complainant is in reach of the evidence which he can very well prove in the Court by leading Pre-summoning evidence.”

Vide the impugned order dated 07.01.2020 of the learned ASJ in Crl. Revision Petition No.203/2019, it has been specifically observed vide paragraphs 8, 9 and 10 by the **learned Trial Court** to the effect:-

“8. Perusal of the record shows that there are allegation of obtaining of signature and thumb impression of the complainant by accused no.1 ,2 & 3 on the blank papers by taking the plea that the same were required for her bank account with Janta Bank and for the purpose of LTC and the same were used for transferring the property in question i.e. WZ-329A, Khasra No. 67/7/1 Gali No.7, Sadh Nagar, Palam Colony, New Delhi in the name of the accused no.1 . There are further allegations that on 0505.2018 when the complainant was passing through the

aforesaid property she saw that the house was being demolished and on enquiry by her from accused no.1, the accused no.1 stated that they will construct up to four storeys and will sell it by making flats. As per the allegations the property of the complainant has been sold to accused no.6 to 9 by hatching conspiracy by all the accused persons and they have wrongfully gained and caused wrongfully loss to the complainant and she has neither signed on any stamp paper nor had gone for purchasing the stamp paper and did not appear before any registrar for signing the document in favour of accused no.1. There are further allegations that accused no.1 had executed a sale deed no. 2847 dt. 03.03.2015 in favour of accused No.3 in which the amount of purchase has been reflected as Rs.28 lakhs. As per the complainant she has never transferred her share in favour of accused no.1 nor executed any power of attorney or any document in favour of accused no.1. She has also averred that she has not received any amount.

9. The perusal of the impugned order whereby the application u/s 156(3) CrP.C. has been dismissed, the Ld. Trial Court has not given any specific observation as to why the investigation by the police in this case was not required. In view of the allegation of the forgery of the documents, this court is of the considered view that the documents in questions are required to be sent to FSL for opinion of the expert and further this can only be done the investigation agency to unearth the truth and the role of respondent no.2 to 4 in the alleged fabrication of documents of property. Thus it is clear that there is no permission on behalf of the complainant to transfer or execute the documents on her behalf and it is also clear sale amounts to cheating with her. Court has not gone into all this aspect. However, this court is not substituting its finding at this stage and inclined to remand back the matter.

10. In view of the aforesaid facts and circumstances Revision is allowed and the order of the Ld. Trial Court is set-aside and the case is remanded back to the Ld. Trial Court for rehearing on the application u/s 156(3) Cr.P.C. in view of the observations made above. Revisionist is directed to appear before Ld. Trial Court on 23.01 .2020.”,

and has thus, *inter alia* observed to the effect that the learned Trial Court had not taken into account the aspect of the allegations of forgery of documents which the learned Revisional Court observed that in its considered view, the said documents in question were required to be sent to the FSL for the opinion of the expert and further that this could only be

done by an Investigating Agency to unearth the truth and the respondent nos. 2 to 4 to that revision petition in the alleged fabrication of documents of property. The learned Revisional Court also made observations in relation to the aspect that there was no permission on behalf of the complainant to transfer or execute the documents on her behalf and that it was thus, clear that the sale amounts to cheating with her, though, the learned Revisional Court expressed that it has not gone into all these aspects but was not substituting its finding at the stage of consideration of the revision and inclined to remand back the matter to the learned Trial Court having set aside the Trial Court order with the matter having been remanding back to the Trial Court for the hearing of the application under Section 156(3) of the Cr.P.C. in view of the observations made in the impugned order dated 07.01.2020.

It is apparent that the petitioners to the present petition CRL.M.C.1524/2020 had not been summoned as instituted in the complaint case by the learned Trial Court and that they have presently no locus to make their submissions in the matter in view of the learned Revisional Court having only remanded the matter for rehearing by the learned Trial Court of the application under Section 156(3) of the Cr.P.C.

The petition and the accompanying application are thus dismissed.

Learned counsel for the petitioner submits that the petitioners herein have filed Complaint Cases No.32396/2019 & 32470/2018 both titled as “*Madhu Verma Vs. Asha Soni*” which are stated to be pending before the same learned Trial Court and are stated to be fixed for the date 27.07.2020. Learned counsel for the petitioners seeks that the said complaint cases be taken up along with the complaint case filed by Asha Soni.

Learned counsel for the petitioners herein may make the said submissions before the learned Trial Court, which may be considered by the learned Trial Court in accordance with law.

ANU MALHOTRA, J

JUNE 24, 2020

'neha chopra'