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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: September 13, 2022

+ W.P.(CRL) 1699/2019

JAGDISH GUPTA

..... Petitioner

Through: Ms. Srishti Agarwal, Advocate
(through VC).

versus

STATE & ORS

..... Respondents

Through: Ms. Nandita Rao, ASC(criminal) with
Mr. Amit Peswani, Advocate for
State/R-1 alongwith SI Avinash
Kumar, P.S. EOW.
Mr. Sumit Choudhary and Mr. Nitish
Pande, Advocates for R-2.
Mr. S.C. Singhal, Ms. Poonam Taneja
and Mr. Pradeep Verma, Advocates
for R-3.
Mr. Madhu Sudan Bhayana,
Advocate for R-4 (through VC).

CORAM:

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T (oral)

1. The present petition is filed under Articles 226/227 of Constitution of India for quashing of summoning order and the proceedings arising out of complaint bearing CC No. 3659/2016 stated to be pending in the Court of Ms. Neha Gupta Singh, MM, North, Rohini Courts/Successor Court and stay of proceedings arising out of FIR bearing No. 0183/2010 at P.S. EOW dated 22.12.2010, trial of which is stated to be pending in the Court of Shri Gagandeep Singh, Chief Metropolitan Magistrate, North, Rohini Courts,



Delhi/Successor Court.

2. The perusal of State Report filed by the State/respondent no. 1 reflects that FIR bearing No. 0183/2010 under sections 420/467/468/471/120B IPC at P.S. EOW was got registered on the basis of complaint made by Vijay Bhatia & others who were the partners of M/s Shri Ganesh Industries on the allegations that they have purchased the land measuring 1600 sq. yds. bearing Khasra No. 138 situated at Siraspur Village, New Delhi from Jagdish Gupta on 08.05.1989 through registered Sale Deed and on 14.01.2010, when they visited the said land, it was noticed that the construction was being raised by someone else. On enquiry, they came to know that Sat Praksh and Rohtash managed the mutation of 2 Bigha 9 Biswa of land in the said Khasra No. 138 in their name. It also came to their notice that Jagdish Gupta had re-sold the said plot to Rohtash on 22.03.2004 besides other facts. After completion of investigation, the charge-sheet was filed and the trial is stated to be pending in the Court of Chief Metropolitan Magistrate, North, Rohini Courts/Successor Court.

3. Sat Prakash also filed a complaint under section 200 Cr.P.C. for initiating the proceedings against the accused, namely, Jagdish, Rohtash, Jaipal, Vijay Bhatia, Arvind Jain and Subodh Jain, who are arrayed as proposed accused in the complaint for offences punishable under sections 406/420/467/468/471/384/506/34 IPC. The Court of Ms. Neha Gupta Singh, MM, North, Rohini Courts/Successor Court vide order dated 24.11.2017, after considering the evidence brought on record, summoned the accused no. 1 to 3 i.e., Jagdish, Rohtash and Jaipal for the offences punishable under section 420/467/468 IPC read with section 120B IPC.

4. The petitioner being aggrieved vide order dated 24.11.2017, filed the



present petition. During the course of the arguments, the counsel for the petitioner stated that the subject matter of the present complaint and the trial arising out of FIR bearing No. 0183/2010 are same as such, the trial and both the cases be clubbed together.

5. The Additional Standing Counsel for the State/respondent no.1 stated that the present complaint and the trial arising out of FIR bearing No. 0183/2010 cannot be clubbed under the given facts and circumstances of the case and more particularly, as mentioned in the Status Report.

6. The present petition is disposed of with direction that the trial arising out of complaint titled as **Sat Prakash V Jagdish & Ors.** bearing CC No. 105/1 in case no. 3659/2016 which is stated to be pending in the Court of Ms. Neha Gupta Singh, MM, North, Rohini Courts/Successor Court is withdrawn from the said Court and assigned to the Court of Chief Metropolitan Magistrate, North, Rohini Courts/Successor Court where the trial in pursuance of FIR bearing No. 0183/2010 is pending. It is further directed that the Chief Metropolitan Magistrate, North, Rohini Courts/Successor Court may consider the clubbing of trial arising out of complaint and FIR bearing No. 0183/2010 in accordance with law.

7. The present petition is accordingly disposed of. However, the concerned parties shall be at liberty to raise their all the pleas and contentions as mentioned in the petition before the concerned Court during the trial.

SUDHIR KUMAR JAIN, J

SEPTEMBER 13, 2022

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