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

+ CRL.M.C. 5710/2022 & CRL.M.A. 25537/2022

42 SHRI JASVINDER SINGH Petitioner/Appellant

Through: Appearance not given.

versus

STATE & ANR. Respondents

Through: Mr. Amit Sahni, APP for State with
SI Mandeep Kumar, PS Kriti Nagar.
Mr. Sumesh Gandhi, Advocate for R-
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+ CRL.M.C. 5711/2022 & CRL.M.A. 25543/2022

43 SHRI BALWINDER SINGH & ANR. Petitioner/Appellant

Through: Mr. Sumesh Gandhi, Advocate.

versus

SHRI JASVINDER SINGH Respondent

Through: Appearance not given.

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Date of Decision: 11.04.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

Both the petitions have been filed for quashing of FIR No. 125/2008 under Section 420/467/468/471/120B/34 IPC PS Kirti Nagar, New Delhi

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and the complainant case bearing no. .9306/2016 titled as *Jasvinder Singh through J. S. Rana, Advocate vs Balwinder Singh and Ors.* FIR No. 125/2008 was lodged by Balwinder Singh as an attorney of late Smt. Ratan Kaur. The genesis of the dispute is the property no. C/30, Namdhari Colony, Ramesh Nagar, New Delhi. Initially, Balwinder Singh, who is an attorney of Smt. Ratan Kaur, filed a complaint against Jasvinder Singh and Others alleging that they have got the documents for the sale executed under the fraud and deceit. Subsequently, in this FIR ultimately the charge-sheet was filed and the case is at the stage of prosecution evidence. Thereafter, Jaswinder Singh filed a criminal case bearing no. 9306/2016 against Balwinder Singh and Others in which summoning order has yet not been passed and the case is at the stage of pre-summoning evidence. While the matter rested thus the mother of Balwinder Singh filed a suit on behalf of Ratan Kaur which was decreed in her favour vide judgment dated 10.07.2015. Sh. Jaswinder Singh and others filed RFA no. 771/2015 against the judgment of decree. However in terms of the judgment the same has been withdrawn. Now the parties have into a memorandum of settlement dated 15.10.2022 and both the parties want to sale the property and share the proceeds in the ratio of 60% and 40%.

It is an admitted case that initially the property was owned by Sh. Bachan Singh. The husband of late Smt. Ratan Kaur, Sh. Bachan Singh died interstate on 23.03.1982 and Smt. Ratan Kaur became the owner of this property. Sh. Bachan Singh and Smt. Ratan Kaur are stated to be having no children. Balwinder Singh and Narender Singh are stated to be the nephew of Smt. Ratan Kaur and are thus claiming to be the sole surviving legal heirs of late Smt. Ratan Kaur.

Sh. Jasvinder Singh is claiming his title on the basis of certain documents alleged to have been executed by Smt. Ratan Kaur which is the subject matter of FIR no.125/2008 which is pending trial. It is also pertinent to mention that the civil suit against Jasvinder Singh was also decreed. It is another question that the RFA was withdrawn in terms of the settlement. However, I consider that the question of title is yet not clear and it is to be decided by the competent civil court. It is also to be decided by the civil court regarding the sole surviving legal heirs of Balwinder Singh and Narender Singh. I consider that these are not the cases where power under Section 482 Cr.P.C. for quashing of FIR is to be exercised. This is an exceptional power conferred upon the High Court, to prevent the abuse of the process of the court and to prevent the miscarriage of justice, hence there is no ground to quash FIR No.125/2008 under Section 420/467/468/471/120B/34 IPC PS Kirti Nagar, New Delhi.

Further, in respect of complaint case no. 9306/2016 the complainant can move an application for withdrawal of the complaint and the learned Trial Court may decide the same in accordance with the law.

Accordingly, both the petitions alongwith pending applications stand disposed of.

DINESH KUMAR SHARMA, J

April 11, 2022/AR