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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 493/2023**

SANDEEP OBEROI

.....Petitioner

Through: Mr. Sanjeev Sehgal, Ms. Sunita
Chaubey, Mr. Santosh Kumar
Pandey, Mr. Raj Kumar, Mr. Anshu
Kumar Mishra and Mr. Harshit
Sharma, Advocates.

versus

RAVI GEHLOT & ANR.

.....Respondents

Through: Mr. Ravi Kishan Bhardwaj, Advocate
for respondent No.1.
Mr. Sanjeev Sabharwal, APP for State
with SI Naveen, P.S. Palam Village.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

29.07.2024

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1. By way of the present petition, the petitioner seeks following prayers:
a) Allow this petition and set-aside the order dated 15.11.2022 passed by the learned Principal District & Sessions Judge, south-west, Dwarka in CR. NO. 551/2022 and order dated 03.08.2022 passed by Ld. JM- 01, southwest, Dwarka in CR. Case No. 1186/2022;
b) Issue the directions to register the FIR in CR. No. 1186 on the complaint of the Petitioner;
2. A perusal of records would indicate that the complainant/petitioner has filed a complaint under Section 200 Cr.P.C. seeking action against respondent No. 1/Ravi Gehlot and his wife respondent No. 2/Ms. Kiran



Gehlot. As per the complaint, the petitioner claims to have sold his property at East Patel Nagar. As mentioned in the sale deed a sum of Rs. 95 lacs was shown as paid to the petitioner by way of RTGS towards part sale consideration, however, no actual RTGS transfer took place. It is the case of the petitioner that the respondents further persuaded him to purchase a flat in Sector 7, Dwarka, for a sum of Rs. 1.20 crores. It is further claimed that in lieu of the said offer, the petitioner was induced to transfer the money to respondent No. 2. Though the said flat at Dwarka was purchased in the name of respondent No. 2, it was neither transferred to the petitioner nor the amount was refunded. According to the complainant, both accused had *malafide* intentions and cheated him. Aggrieved by this, the petitioner lodged a complaint to the police and since no action was taken, he filed a complaint in the court alongwith an application u/s 156 (3) Cr.P.C for directing the police to register an FIR.

3. As noted hereinabove, the said application filed by the petitioner herein under Section 156(3) of the Cr. P.C. was dismissed by the learned Judicial Magistrate vide Order dated 03.08.2022.

4. Aggrieved with the order of dismissal, the petitioner challenged the same by way of Criminal Revision, which also came to be dismissed by the learned Principal District & Sessions Judge by way of the Impugned Order dated 15.11.2022.

5. In the present proceedings, it was urged on behalf of the petitioner that police investigation is required to unearth the entire conspiracy and to recover the documents as well as the cheated amount. It is further contended that the learned Judicial Magistrate and the Sessions Court erred in not appreciating that once the complaint filed by the petitioner disclosed a



cognizable offence having been committed by the respondents, the police was duty bound to register an FIR against the respondents. In support, he places reliance on the judgement of the Supreme Court Lalita Kumari v. Govt of U.P & Ors. reported as **(2014) 2 SCC 1**. He further submits that the learned courts below failed to appreciate that the accused persons committed fraud and cheated the petitioner of Rs 1.20 crore. Petitioner's wife and mother, on behalf of the petitioner, issued a legal notice dated 25.01.2022 for recovery of the amount taken by the respondents, despite which the said amount was not refunded. Therefore, he contends that the respondents have dishonestly and fraudulently used the amount of the complaint for their ill-motives and have committed offences such as criminal breach of trust, cheating and fraud.

6. A perusal of material placed on record would reveal that the petitioner's wife and mother issued a legal notice to respondent No. 2, wherein it was claimed that believing the false promise of respondent No.2 and not realizing the *malafide* intention of her husband, a loan of Rs. 1.20 crores was given by them to buy a good deal of property in Dwarka. The amount was transferred under *bonafide* belief that respondent No.2 would buy the property in their names. Some flats were also shown to them but these were not liked by them. It was then realised by the wife and mother of the petitioner that he was only trying to buy the time on one pretext or the other, and therefore, he was asked to return the money. However, the money was not returned. As per the said notice, it was further claimed that subsequently, one flat in Dwarka was purchased in the name of respondent No.2 by using the aforementioned sum of Rs. 1.20 crores. The respondent no.2 was asked to return the said amount, which she did not.



7. Although it was stressed on behalf of the respondents that there is neither any inducement nor any privity of contract with any flat owner however, at this stage this Court refrains from commenting on the merits of the contention as proceedings under Section 200 Cr.P.C. are pending. Suffice to observe that indisputably, there is no written contract containing the claimed understanding between the parties. The petitioner seeks recovery of money. All the incriminating facts and documents including the sale deed with respect to the property sold at East Patel Nagar, are within the knowledge/possession of the petitioner. The petitioner has failed to make out any case of either custodial interrogation of the respondent or collection of evidence by the investigating authority.

8. Moreover, from the narration of facts in the ATR filed by the police before the Learned Judicial Magistrate, it is quite clear that there is no documentary proof suggesting that a sum of Rs. 1.20 crores has been transferred to the bank account of respondent No. 2.

9. In view of the above, I find no infirmity in the impugned order and, consequentially, no merit in the present petition. The same is, accordingly, dismissed.

10. The order be uploaded on the website forthwith.

MANOJ KUMAR OHRI, J

JULY 29, 2024

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