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

+ **W.P.(CRL) 904/2023**

SMT. SUSHMA

.....Petitioner

Through: **Mr. Dhramraj ohlan Adv.**

versus

STATE (GOVT. OF NCT) & ORS.

.....Respondents

Through: **Ms. Rupali Bandhopadhyaya, ASC with
SI Chetan Rana, P.S.Vasant Kunj,
South.**

**Mr. Neeraj Malhotra Sr Adv along
with Mr. Rishi Raj Sharma and Mr.
Nimish Kumar Advocates for R-2**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

06.09.2024

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1. Writ Petition under Section 226 of the Constitution of India read with Section 482 Cr.P.C has been filed by petitioner for quashing of FIR No.139/2023 P.S Vasant Kunj, South under Section 448/34 IPC and for directing Departmental Enquiry against respondent No.3/SHO, respondent No.4/DCP and respondent No.5/IO for their illegal action in helping the Complainant in grabbing the land of the petitioner i.e Khasra No.736/1 of which the husband of the petitioner was the registered owner, and to direct the Police not to interfere in the peaceful possession of the said property of which the petitioner is the owner.

2. The **Status Report** has been submitted on behalf of respondent



No.1 wherein it is stated that Ms. Sushma i.e. the petitioner had alleged that her husband Late Sh Rajpal was the owner of the property bearing Khasra No.736/1, Village, Mahipalpur, Delhi while the adjoining proper bearing Khasa No.736/2, Village, Mahipalpur, Delhi was registered in the name of the family of respondent No.2, Rajeev Gaur. She claimed that he was are trying to grab her property on the pretext of the property falling in Khasra no. 736/2, Village, Mahipalpur. She also stated that a Civil Suit has been filed by respondent No.2 against the petitioner for a Restraint and Injunction. In addition, on 26.02.2023 the petitioner had alleged that the Police took away Sh. Deepak, co-accused who was standing on her side and booked him under Section 107/151 Cr.P.C.

3. It was further contended that on 01.03.2023, respondent No.3/SHO and respondent No.5/IO assaulted and dragged her to the Police Station where she was informed that an FIR no. 139/23 under Section 448/34 IPC, PS Vasant Kunj South has been registered on false and fabricated grounds.

4. Furthermore, she alleged that her belongings present on the said property, were stolen by the respondent no. 2 who took it in a Tempo under close supervision of the Police. On the next day, iron rods were installed on the passage and locks were put on Gates so the petitioner could not enter the property.

5. It is further submitted that on 26.02.2020, a PCR call vide DD No. 22A was received at P.S VK (South) regarding trespassing. Reaching at the spot, a guard Abhishek along with Respondent no.2 Sh. Rajeev Gaur were present who alleged that the petitioner, Sushma



Singh along with 4-5 muscle men had tried to forcibly break a portion of boundary wall and illegally enter into the property. It was further alleged that the boundary of the said property falls in the adjoining property belonging to her. She also extended threats to the security guards present there. Further, both petitioner and respondent no. 2 were called to the Police Station to produce their property papers and show possession documents. However, Petitioner Ms. Sushma left without submitting any document. Subsequently, she returned and remained in the property and obstructed the passage.

6. It was subsequently found that the petitioner along with Deepak who were present in the suit property, were creating nuisance and threatening respondent No.2 and the guards. It was further revealed that Sh. Deepak had come to the property in a Duster car bearing no. DL8CY8915 and parked it at the gate of the said property obstructing the passage. Action u/s 107/151 Cr.P.C was taken against Sh. Deepak and his phone alongwith Rs.26,000/- cash were seized in his personal search, while the car was seized u/s 66.1B DP Act.

7. A Complaint was subsequently filed by Respondent No. 2 regarding trespassing, leading to the registration of FIR No. 139/23 under Sections 448/34 IPC. CCTV footage illustrated that petitioner had entered the property by damaging the Boundary wall and had permitted several individuals, including two cars, to access the premises.

8. The investigation has been carried out extensively. During the investigation it has been found that one Bharat Sehrawat is in possession of the property bearing Khasra No.736/1 and Plot No.75,



L-9, Mahilpur, which had been sold to him by the husband of the petitioner while the possession of plot No.736/2 which was the property in dispute, has been restored to respondent No.2. It is further submitted that the chargesheet has already been filed in the Court.

9. The learned counsel on behalf of the petitioner claims that it is essentially a Civil dispute which has been given a colour of criminal case and the FIR is liable to be quashed.

10. Submissions Heard.

11. From the status report and the facts as narrated above, it is disclosed that the petitioner had tried to occupy the suit premises which is in possession/ownership of respondent No.2 by breaking the boundary wall, which is prima facie an offence under Section 448 IPC.

12. The chargesheet has already been filed. There is no ground for quashing of FIR. The petitioner is at liberty to take all the grounds taken here before the learned Trial Court, in accordance with law.

13. Petition is disposed of.

NEENA BANSAL KRISHNA, J

SEPTEMBER 6, 2024

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