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

+ **W.P.(CRL) 1789/2022**

SH. RAKESH SHARMA Petitioner

Through: Mr. Tushar, Advocate

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr. Amol Sinha, ASC for State with
SI Vikar Kumar, DIU/Rohini District.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

22.02.2024

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1. This writ petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking the following relief:-

“(a). Issue of a writ, order or direction in the nature of mandamus or any other writ or proper order thereby directing the respondent to transfer the investigation in the instant case FIR bearing no.0006/2021 dated 04/01/2021 registered u/s 420/448/468/471/120B IPC at P.S.-Begum Pur, District North-West, Delhi; from local police to an independent investigating, in the interest of justice.”

2. Status report has been filed on behalf of the State, wherein it is stated that on 07.04.1993, father of the Complainant purchased Plot bearing No.57A/2, Khasra No.30/2, situated at Deep Vihar, Pansali, Delhi, in the name of Complainant's mother Pushpa Devi from Harbhajan Lal, for a consideration of Rs.25,000/- and GPA was executed in the name of Complainant's mother and the possession was handed over. On 31.03.2013 when Complainant was repairing the boundary wall and installing iron gates on the said plot, 2-3 persons including the accused visited the plot and



claimed ownership. On a complaint being made, present FIR was registered at PS: Begum Pur and investigation was conducted. On allegations being made with respect to the investigation, case file was transferred to District Investigation Unit ('DIU') and investigation by carried out by IO Insp. V.K. Bhatiya. Final charge sheet has been filed on 11.10.2021 and matter is pending trial before Rohini Court.

3. Learned counsel for the Petitioner states that the investigation is not being conducted properly and the investigating agency after filing the charge sheet has taken a diametrically opposite stand in favour of the accused. There are forged documents concerning the transfer of the property by accused Deepak Behl, but no investigation on this aspect has been carried out. The investigating agency is in collusion with the accused, which is evident from the charge sheet, wherein the IO has stated that the co-accused Sanjeevan has not visited the property in question, which is contrary to the earlier status reports.

4. Learned ASC, on the other hand, strenuously disputes the allegations made and states that the investigation was transferred to DIU, which is an independent investigating agency and there are no allegations against any officer of DIU that the investigation is not being conducted properly. Charge sheet has been filed and Petitioner has remedies under the law to challenge the proceedings at the appropriate stage.

5. Having heard the learned counsels for the parties, this Court finds merit in the stand of the State. Most of the averments in the petition touch upon the merits of the complaint. There are no allegations, which point a finger to the investigation carried out after the same was taken over by DIU, which is an independent investigating agency. No doubt, a complainant has



a right to question an investigation, if it is not being conducted properly and seek re-investigation or further investigation. In the present case, during the course of arguments, counsel for the Petitioner concedes that Petitioner has already taken recourse to the remedy available and has filed an application seeking further investigation into the matter, which is pending consideration before the Trial Court. This Court, therefore, sees no ground warranting any interference at this stage and the petition is dismissed.

6. It is, however, made clear that this Court has not expressed any opinion on the merits of the case. Trial Court is at liberty to decide the pending application seeking further investigation in accordance with facts and circumstances of the case and in accordance with law. Needless to state, if the Petitioner has any grievance after the application is decided, he would be at liberty to take recourse to remedies available in law.

JYOTI SINGH, J

FEBRUARY 22, 2024/kks