



\$~64

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

+ CRL.M.C. 5896/2023

RAJ KUMAR GUPTA

.....Petitioner

Through: Mr. Rajesh Khaware,
Advocate.

versus

STATE OF NCT OF DELHI AND ORS

& ANR.

.....Respondents

Through: Mr. Ajay Vikram Singh,
APP for State alongwith
Inspector Gajender Singh,
DIU/NW and SI Jagbir
Malik P.S. Kapshera.
Mr. C. M. Gopal and Mr.
Lalit Rana, Advocates for
R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

02.08.2024

%

1. The present petition is filed challenging the order dated 11.04.2023 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), South West, Dwarka Courts in CR No. 43/2023 in FIR No. 26/2004 titled *Raj Kumar Gupta v. State & Ors.*

2. By impugned order, the learned ASJ dismissed the petitioner's revision petition while noting that the investigations carried out did not indicate the commission of criminal trespass. By the present petition, the petitioner seeks setting aside of the impugned order, and a direction seeking further investigation in the captioned FIR under Section 447 of the Indian Penal Code, 1860 ('**IPC**').

CRL.M.C. 5896/2023

Page 1 of 5



3. The FIR in the present case was filed on a complaint given by one BL Gaarkhail, who is stated to be the then General Manager of M/s Prashant Glass Work (P) Ltd (hereafter '**complainant company**'). It is alleged that the complainant company was the rightful owner in possession of the suit land.

4. The complainant, without disclosing the name of any particular person, had alleged that some unknown persons had changed the locks, and thrown debris on the land, which is allegedly in the possession of the complainant company. Subsequently, an FIR under Section 447 of the IPC was registered.

5. During investigations, it was revealed that there existed some dispute in respect of the said land between Respondent No. 2-3 and the petitioner. It is stated that a comprehensive enquiry was made to examine the concerned persons regarding the alleged incident. It is stated that efforts were also made to verify the facts in regard to the lawful ownership/possession of the said land. It is stated that consequent to an exhaustive enquiry, the police concluded that the rightful owner of the said land in question was in fact Respondent No. 2. It is stated that on that basis, the investigating officer concluded that the allegations of trespass was not maintainable, and consequently a closure report was filed.

6. A protest petition was subsequently filed by the petitioner, claiming himself to be the authorized signatory of Motiwala Foundation, a charitable trust, which was a 75% shareholder of the complainant company. The protest petition was filed contending that the investigating agency had failed to conduct a fair and impartial investigation.

7. By the order dated 07.09.2022, the learned Metropolitan
CRL.M.C. 5896/2023

Page 2 of 5



Magistrate ('MM'), dismissed the petitioner's protest petition and accepted the closure report filed by the investigating agency. It was specifically noted that the Investigating Officer had followed the usual protocol, and did not miss any significant aspect during the course of the investigation. The learned MM noted that it was only after a thorough investigation that the investigating agency concluded that the rightful owner of the land was Respondent No. 2.

8. It was also noted that contrary to the initial complaint, neither the petitioner nor the complainant, during further investigations, alleged trespass by any unknown persons, let alone trespass committed by Respondent No. 3. The learned MM observed that mere suspicions cannot discredit the entire investigation carried out thereby accepting the closure report. Aggrieved by the said order, the petitioner preferred a revision petition before the learned ASJ.

9. The learned ASJ, *vide* the impugned order, dismissed the petitioner's revision petition while specifically noting that the contentions of the petitioner were mere allegations, and that the petitioner had failed to highlight any specific fact to show that the investigating agency had excluded any aspect from investigation. It was further noted that the documents collected during the investigation did highlight the existence of a dispute between the petitioner and Respondent Nos. 2-3, however, there was no material to indicate the commission of any cognizable offence.

10. The learned counsel for the petitioner submits that the petitioner remained in possession of the said land for around 18 years. He submits that the said land was sold by Respondent Nos. 2 – 3, *vide* sale deed dated 27.12.1996. He submits that the

CRL.M.C. 5896/2023

Page 3 of 5



learned ASJ failed to take into account that Respondent Nos. 2-3, executed the sale deed dated 27.12.1996, despite knowing that the said land was already vested in the Gram Sabha, thereby cheating the petitioner. He submits that the investigation carried out was not fair, and thus prays for further investigation in the FIR.

11. *Per contra*, the learned Additional Public Prosecutor opposes the request for further investigation. He submits that the petitioner has failed to point to any specific circumstance to indicate that the investigation carried out was unfair or non-transparent. He submits that the learned ASJ has rightly dismissed the petition, since the investigation carried out did not highlight the commission of any cognizable offence.

12. It is an admitted case that a civil suit was filed by the petitioner at some stage which was dismissed and no steps have been taken thereafter. It is apparent that the petitioner is not interested in any of the rights in the present property, however he is only interested in pursuing the present FIR, which was registered way back in the year 2004.

13. While the expanse of power of the High Court under Section 482 of the Code of Criminal Procedure, 1973, is wide, and it is open to the Court to direct further investigation or even reinvestigation in appropriate cases, the same ought to be exercised only if it is imperative to secure the ends of justice. In the present case, from a bare perusal, it is apparent that the petitioner has failed to point to any specific instance to argue that the investigation was conducted improperly and in an unjust manner, except for the bare claims of the petitioner. The present FIR, thus, does not merit any further investigation.

14. In such circumstances, in my opinion, the learned ASJ
CRL.M.C. 5896/2023

Page 4 of 5



rightly dismissed the petitioner's revision petition.

15. In view of the above, this Court finds no reason to interfere with the impugned order and the present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 02, 2024

"SSC"