



2025:DHC:2783



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 22.04.2025

+ **CRL.M.C. 4616/2019, CRL.M.A. 35755/2019 & CRL.M.A. 13499/2022**

SHRI PRAVEEN KUMAR JAIN

.....Petitioner

versus

SHRI RAGHUNANDAN & ANR

.....Respondent

Advocates who appeared in this case:

For the petitioner : Mr. Praveen Suri, Advocate

For the Respondent : Ms. Kiran Bairwa, APP for the State with
Sandeep Yadav, PS Palam Village.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed against the order dated 03.09.2019 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), Dwarka Courts, Delhi in Criminal Revision No. 31/2018.

2. By the impugned order, the learned ASJ set aside the order dated 12.07.2018 passed by the learned Metropolitan Magistrate ('**MM**') and directed the SHO, Police Station, Palam Village to lodge



an FIR against the petitioner for offences under Sections 420/467/468/471 of the Indian Penal Code, 1860 ('IPC').

3. The brief facts of the case are that Respondent No. 1 claims to be the sole and absolute owner of the built-up house bearing No. RZ-D 1/84, Gali No. 5, Mahavir Enclave, New Delhi (hereafter '**subject property**'). It is the case of Respondent No. 1 that the subject property is his self acquired property.

4. It is the case of Respondent No. 1 that he had taken a loan for a sum of ₹2-3 lakhs from the petitioner on account of the illness of his wife. It is alleged that the petitioner, taking advantage of the illness of Respondent No. 1's wife, agreed to help him and in return also took the scanned photocopy of the documents of the subject property as security. It is alleged that the petitioner also took the signatures of Respondent No.1 on some blank papers. It is the case of Respondent No. 1 that despite repaying the entire loan amount by 22.05.2001, the petitioner failed to return the photocopy of the documents of the subject property and the blank papers bearing the signature of Respondent No. 1. It is alleged that the petitioner, with the intent of grabbing the subject property, has fabricated certain documents. It is further alleged that the petitioner made some unmerited complaints to the police regarding the construction being carried out by Respondent No.1 on the subject property.



5. A Civil Suit for the recovery of possession of the subject property was filed by the petitioner, which was dismissed. During the course of the said proceedings, it was alleged that Respondent No.1 had sold a portion of the property to one Anju Kumari by way of Sale Deed dated 01.06.2010. The same was denied by Respondent No.1 who contested that he did not know the Notary Public- Mr. O.P. Chaudhary, who had been examined to prove the sale document, and alleged that he had not signed any document in front of him.

6. The learned MM, by order dated 12.07.2018, dismissed the application preferred by Respondent No. 1 under Section 156(3) of the Code of Criminal Procedure, 1973 ('**CrPC**') while specifically noting that the entire material on record was within the reach of Respondent No. 1. It was noted that the investigation of the police was not required. Consequently, the application preferred by Respondent No. 1 under Section 156(3) of the CrPC was dismissed.

7. By the impugned order, the learned ASJ, in the revision petition preferred by Respondent No. 1, directed the SHO Police Station Palam Village to lodge an FIR against the petitioner for offences under Sections 420/467/468/471 of the IPC. The contention raised by the petitioner that no case was made out as he was the owner of the subject property in view of the registered sale documents executed by Respondent No. 1, was rejected. The learned ASJ noted that during the course of the arguments, it transpired that the petitioner had filed suit for possession in respect of the subject property against Respondent



No. 1 and had lost the same. It was noted that the earlier suit for possession preferred by the petitioner had been dismissed despite the existence of registered documents in favour of the petitioner. It was noted that a perusal of the copy of that judgment shows that the property was alleged to have been purchased by the petitioner for a sum of ₹3 lakhs only. It was noted that as per the description of the property, the same was 200 square yards comprising 6 rooms on the ground floor, 5 rooms and one Mandir on the first floor. The judgment further mentioned that as per the petitioner, the actual physical possession of the said property was handed over to the petitioner on 01.04.2000, but that after sometime, Respondent No. 1 had apparently approached the petitioner for the use of the said property for residential purpose which had been allowed by the petitioner.

8. The learned ASJ noted that it did not seem plausible that a property of 200 square yards, having more than 11 rooms, might have been sold for the sale consideration of ₹3 lakhs only. It was noted that the conclusion drawn by the learned MM that investigation was not required in the present case as entire evidence was within the reach of Respondent No. 1 did not appear to be tenable. It was noted that in the peculiar facts of the case, whether the alleged offence was committed by the petitioner alone or in conspiracy ought to be investigated. Consequently, the learned ASJ directed the registration of the FIR against the petitioner.



9. The learned counsel for the petitioner submitted that the impugned order had been passed based on surmises and conjectures. He submitted that the learned ASJ did not take into account the fact that the documents of sale and will were registered, and the same cannot be contended to be blank documents or blank stamp papers as is the case of Respondent No. 1. He submitted that the learned ASJ failed to consider that the transaction in place had taken place in April, 2000, and thereafter, the petitioner had filed a Civil suit for recovery of possession. He submitted that Respondent No. 1, in order to pressurise the petitioner, filed the present complaint in the year 2016 after a gap of more than 16 years.

ANALYSIS

10. At the outset, it is relevant to note that the petitioner has approached this Court by invoking the inherent jurisdiction of this Court. It is trite law that the inherent jurisdiction of this Court has a wide ambit and can be exercised so as to prevent any miscarriage of justice, however, the same is to be exercised sparingly.

11. The present case is one where the learned MM had dismissed the application filed by Respondent No.1 under Section 156(3) of the CrPC, whereafter, by the impugned order, in exercise of revisional jurisdiction, the learned ASJ had set aside the order of the learned Trial Court and directed the concerned SHO to register the FIR.



12. One of the grounds agitated by Respondent No.1 before the learned ASJ was that an FIR ought to have been registered as the allegations disclose commission of cognizable offences. Reliance was placed on the judgment passed by the Hon'ble Apex Court in ***Lalita Kumari v. Govt. of U.P. : (2014) 2 SCC 1.***

13. The Hon'ble Apex Court, in the case of ***Lalita Kumari v. Govt. of U.P. (supra)***, categorically held that FIR ought to be registered by the police when the allegations clearly disclose commission of a cognizable offence. The relevant portion of the judgment is set out below:

“119. Therefore, in view of various counterclaims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc...At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR.

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120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.”

14. It is equally true that that it is not mandatory for the Magistrate to direct registration of an FIR merely because allegations disclose the commission of a cognizable offence, unless investigation is required. The Magistrate, after application of mind, can also decide to take cognizance and proceed under Section 202 of the CrPC instead of issuing directions under Section 156(3) of the CrPC (Ref. ***Kailash Vijayvargiya v. Rajlakshmi Chaudhuri : 2023 SCC OnLine SC 569***).

15. At this point, this Court considers it apposite to make a reference to Section 156 of the CrPC, which reads as under :

“156. Police officer's power to investigate cognizable case.—

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned.”



16. While exercising powers under Section 156(3) of the CrPC and directing the registration of an FIR, the Magistrate needs to ensure that a cognizable offence is disclosed from the allegations mentioned in the application and the essential elements of the alleged offences are *prima facie* satisfied and that police intervention is required.

17. It is the case of the petitioner that the learned ASJ did not give due consideration to the fact that the alleged transaction dated back to the year 2000 and that the allegations were implausible in view of the registered sale documents which cannot be called as blank documents or blank stamp papers.

18. It is important to stress at this juncture that it is not open to the Court to venture into ascertaining the finality of the merits of the allegations while considering an application under Section 156(3) of the CrPC. As noted above, the limited test is whether *prima facie* cognizable offences are made out from the allegations and if police investigation will be conducive to justice [Ref. ***HDFC Securities Ltd. v. State of Maharashtra : (2017) 1 SCC 640***].

19. Much emphasis has been placed on the fact that the learned ASJ ought to have considered that a period of 16 years had elapsed since the registered sale documents were executed in favour of the petitioner, and that the present complaint is only a tactic by the Respondent No. 1 to pressurise the petitioner. Insofar as the argument of a gap of 16 years between the complaint and the alleged sale



transaction is concerned, it is trite law that mere delay in lodging an FIR or initiating criminal proceedings is not fatal to the case of the prosecution (Ref. ***Hariprasad @ Kishan Sahu v. State of Chhattisgarh : 2023 INSC 986***). It would thus not be open to the Court to not direct registration of FIR, if *prima facie* cognizable offence is made out, solely on account of delay.

20. Even otherwise, on a perusal of the impugned order, it cannot be said that the learned ASJ did not properly consider that the alleged sale transaction dated way back to the year 2000. It was argued by Respondent No. 1 before the learned ASJ that the petitioner had also filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 during the pendency of the ongoing disputes between the parties. The learned ASJ further took into consideration the filing of a Civil Suit by the petitioner whereby he had sought recovery of possession of the subject property on the basis of certain registered documents dating back to the year 2000. The learned ASJ perused the judgment passed in the Suit and noted as under:

*“15. Ld. Civil Judge dismissed suit for possession filed by respondent no. 2 despite existence of registered documents in favour of respondent no. 2. **Perusal of copy of judgment shows that in the judgment, it is mentioned that property in question was purchased by respondent no. 2 for sum of Rs. 3 lacs only.** As per description of property, the same is in 200 sq. yards comprising of 6 rooms on ground floor, five rooms and one personal Mandir on first floor. It is further mentioned that actual physical possession of the said property was handed over to respondent no. 2 on 01.04.2000 but that after sometime of taking possession petitioner approached respondent no.2 for use of said property for residential*



purpose which respondent no. 2 allowed for not more than six months but that thereafter petitioner did not hand over possession of said property to respondent no. 2. It has been observed in the said judgment that no explanation has been furnished by respondent no. 2 for receipts Ex. DW1/C (colly) showing payments made regularly and appeared to be contemporary time when the loan was borrowed by petitioner qua property in question.”

(emphasis supplied)

21. It was also noted that an appeal had also been filed by the petitioner against the judgment in the Suit. Even so despite the alleged transaction dating back to the year 2000 and the application under Section 156(3) of the CrPC having been filed after a period of 16 years, the learned ASJ was still pleased to direct registration of FIR on being essentially weighed by the fact that the property in question, being 200 sq. yds. and having more than 11 rooms, was allegedly bought by the petitioner for a paltry sale consideration of ₹3 lakhs.

22. While it is argued on behalf of the petitioner that the allegations are implausible as the documents of the sale were registered, as noted above, the main rationale behind the direction to register the FIR seems to be the practical impossibility for the sale consideration of the subject property to be merely ₹3 lakhs. The arguments in relation to implausibility of the case of Respondent No. 1, and the delay in filing the complaint is even otherwise in the nature of defence. At the stage of registration of an FIR, the defence of the accused persons is not a relevant factor.



23. From a bare perusal of the allegations as levelled by Respondent No.1 as well as the attenuating facts of the case, in the opinion of this Court, *prima facie* ingredients of cognizable offences are made out. Respondent No.1 has alleged that he had merely taken a loan from the petitioner, which has since been repaid, however, the petitioner has not returned the scanned copy of the property documents which were given to him as security and he has tried to grab the subject property. Respondent No.1 has further alleged that he also has certain receipts of repayment, which could not be satisfactorily explained by the petitioner before the learned Civil Court.

24. It is also relevant to note that Respondent No. 1 in the present case has denied the registered sale documents produced by the petitioner and alleged that the petitioner has misused the blank papers with his signatures. The sale documents in favour of the petitioner have been rightly found to be doubtful in view of the meagre consideration amount. *Prima facie*, some doubt has also been created on the veracity of the registered documents against the petitioner and it is due to this that the FIR has been directed to be registered for the offences under Sections 468 and 471 of the IPC along with Section 420 of the IPC. For this reason, only because there has been a delay in initiating criminal proceedings, the same cannot be a ground to not direct registration of FIR.

25. It is also equally relevant to note that the learned MM, by order



dated 12.07.2018, had dismissed the application under Section 156(3) of the CrPC in a cyclostyle manner after taking note of the allegations. The said order does not depict proper application of mind by the learned MM and the same was rightly found to be perverse by the learned ASJ.

26. The learned ASJ also rightly took exception to the finding of the learned MM that investigation of police was not required as evidence was within reach of Respondent No.1. It has been noted in the impugned order that Respondent No.1 cannot collect evidence to ascertain whether the alleged offence was committed by the petitioner alone or in conspiracy with any one else. It was found that in case of conspiracy, evidence regarding the same can only be collected after investigation in the matter. Investigation is required on this aspect.

27. It is also relevant to note that one of the alleged offences is forgery. While it is not always necessary to direct registration of FIR when allegations of forgery are made, in the facts of the present case where the allegations are in relation to misuse of blank signed papers for obtaining registered documents, and considering that the alleged transaction dates back to the year 2000, in the opinion of this Court, police intervention will be conducive to saving time of Court and a speedy resolution of the case.

28. In view of the aforesaid, this Court does not find any ground to interfere with the impugned order.



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29. The present petition is accordingly dismissed. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

APRIL 22, 2025