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

+ CRL.M.C. 1032/2012

CHATUR SINGH RATHOUR & ANR Petitioners

Through: Ms.Neetu Guar, Advocate

versus

AJAY KUMAR SHARMA & ANR Respondents

Through: Mr. J.S. Lamba, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

20.03.2024

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1. By way of present petition filed under Article 227 of Constitution of India read with Section 482 Cr.P.C., the petitioners seek quashing of Complaint Case being CC No. 04/2009 (Old CC No. 2235/2007), titled as 'Ajay Kumar Sharma v. Chatur Singh Rathour & Anr.' pending before the learned MM, Karkardooma Courts, Delhi.

2. The facts, as apparent from the material placed on record, are that respondent No.1 had filed a complaint under Sections 193, 196, 420, 464, 468, 471, 120B IPC against the present petitioners. In the said complaint, it has been alleged that respondent No.1 had entered into a sale transaction in the context of property bearing No. B-36/B (New No.B-42), Street No.1, Near Mangalam Hospital, West Vinod Nagar, Delhi for a total consideration of Rs.15 lacs with petitioner No.2, in the name of his wife.

3. Apparently, sale transaction documents were entered into, however,



on account of certain disputes arising, respondent No.1 as well as his wife preferred a civil suit bearing No. 185/07 for declaration and injunction against the petitioners. The said suit, however, came to be dismissed for want of any sale deed. The RFA preferred against the decision also stands dismissed. Respondent No.1 and his wife preferred another suit bearing No.1111/2016 for specific performance. Admittedly, the said suit stands dismissed, however, the RFA against the decision is pending consideration.

At an earlier point of time, the petitioners had also preferred a civil suit bearing No.186/07 against the wife of respondent No.1 simplicitor for injunction. Indisputably, the said suit also came to be dismissed for non-prosecution. Another suit pertaining to the subject property was filed by one *Satya Prakash* against petitioner No.2 being Suit No. 158/05. This suit also came to be dismissed for non-prosecution.

4. The present complaint relates to the receipts filed in the latter two suits, which respondent No.1 claims to be forged and fabricated. The said receipts, copy of which has been placed on record, pertain to the receipt for sums of Rs.2.5 lacs and Rs.1.5 lacs. It is alleged in the complaint that in the suit bearing No.186/2007, the petitioners have placed on record a receipt dated 18.11.2005 for Rs.2.5 lacs which is shown to have been executed by respondent No.1 as well as his wife. It is this receipt which is claimed to have never been executed and rather forged and fabricated. In the other suit bearing No.158/2005 filed by one *Satya Prakash*, another receipt dated 21.04.2003 for Rs.1.5 lacs statedly executed by petitioner No.1's mother is also alleged to be forged and fabricated and in this regard, reference has been made to the statement of the petitioner No.1's mother made to the I.O./DIU in FIR No.40/06, PS Mandawali, Delhi, lodged at the instance of



the present petitioners.

5. The petition is premised on the ground that a private complaint is not maintainable inasmuch as the alleged forgery has been committed with respect to the documents which were produced before the Court and as such the only appropriate procedure would have been under Section 340 Cr.P.C. It is also contended that the proceedings being civil in nature, no criminal complaint can be made. Lastly, it is submitted that the civil suits filed by the respondent No.1 and his wife having been dismissed, the subsequent criminal complaint cannot be allowed to continue.

6. Learned counsel for the respondent No.1, on the other hand, has contested the petition. It is submitted that the civil suits filed by respondent No.1 and his wife pertain to transaction documents, the aforesaid receipts being not part of them. The relied upon documents in the said suits were entirely different and these two receipts were neither filed nor did they surface in the course of those proceedings. It is submitted that the dismissal of the said suits will not come in the way of respondent No.1 to pursue his complaint.

7. Insofar as the petitioners' first contention that a private complaint would not be maintainable is concerned, it is apposite to note the decision of the Constitution Bench of the Supreme Court in Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr. reported as **(2005) 4 SCC 370**, wherein it has been categorically held that only when a forgery is committed while the documents are in the custody of the Court, the procedure under Section 340 would have to be followed, otherwise in a case where forgery is committed outside and thereafter the document is filed in the court, a private complaint would be maintainable. Thus, the first contentions is found meritless.



Merely because the civil suits filed by the respondents against the petitioners have been dismissed, the same cannot by itself be the basis for dismissal of criminal complaint. Concededly, the two receipts for which the criminal complaint is pending did not form part of the said civil proceedings. One of the said two receipts was produced by the petitioner in a suit filed by him, which is an entirely different cause of action.

Another contention raised is that the present respondent could not have filed the complaint alone without impleading his wife also is meritless, as one of the alleged receipts also bears his signatures.

8. In view of the above, I find no merit in any of the contentions raised. The petition deserves to be rejected. The same is accordingly dismissed.

9. A copy of this order be communicated to the concerned trial court.

MANOJ KUMAR OHRI, J

MARCH 20, 2024/na