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

+ **CRL.M.C. 9520/2024**

M/S BIGUR FINANCE LTD.

.....Petitioner

Through: Mr. Akhil Sachar & Mr. Adesh Jai
Krishan, Advocates.

versus

THE STATE GOVT. OF N.C.T. OF DELHI AND OTHERS

.....Respondents

Through: Mr. Mukesh Kumar, APP for the
State and SI Deepak Malik, PS
Barakhamba Road.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

05.12.2024

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CRL.M.A. 36561/2024

1. Exemption allowed, subject to all just exceptions. Application stands disposed of.

CRL.M.C. 9520/2024

2. The present petition has been filed under Section 528 BNSS challenging the order dated 30.08.2024 passed by Ld. ASJ-04, Patiala House Courts, New Delhi whereby the Ld. Session Court in Cr. Rev. No. 135/2023 titled as *M/s Begur Finance Ltd. v. State & Ors.*, dismissed the revision petition challenging the order dated 12.12.2022 whereby the Ld. MM had dismissed the application filed under Section 156(3) Cr.P.C.



3. The facts as summarised by the Ld. Session Court in order dated 30.08.2024 are as under:

“2. Brief facts as stated in the complaint are that the respondent No. 2 approached the petitioner in 2013 for loan. After completion of formalities, loan for amount of Rs.70 Lakh was sanctioned in favour of the respondents on 26.12.2016. That R-2 mortgaged 15% share of his property bearing No. Khewat / Khata No. 497, RECT. No. 61, Quila No. 19/1 (1-13), 19/2(6-7), 20(8-0), 21 (8-0), 22 (8-0), etc. on the pretext that he is the absolute and rightful owner of the said property. It is alleged that R-2 after paying initial installments started defaulting in making further payments. He again offered to mortgage his share in the abovesaid property and a supplementary agreement was executed between the parties for the outstanding amount of Rs. 12287681/-. It is alleged that now the complainant / petitioner has come to know that R-2 has several pending litigations and has lesser share in the same as claimed by him in the supplementary agreement. It is alleged that the respondents have committed the offence of cheating and also fabricated forged documents. He had lodged various complaints before the various authorities, however, no action was taken on his complaints. Hence, he filed the complaint before the Ld. MM alongwith the application u/s 156 (3) Cr.P.C. which has been dismissed by the Ld. MM, hence the present petition.”



4. Before dwelling on the facts of the present case, it is necessary to examine the scope of the revisional jurisdiction of this Court. It is well settled that revisional jurisdiction can be exercised only in cases where there is illegality, incorrectness, or infirmity in the impugned order. The Apex Court in **Amit Kapoor v. Ramesh Chander**, (2012) 9 SCC 460, held that the revisional power under Sections 397/401 Cr.P.C. should be exercised only in exceptional cases where there is a manifest error of law, perversity, or gross miscarriage of justice. The private complaint, upon being filed by the complainant, provides discretion to the Magistrate under Section 156(3) Cr.P.C. either to send the matter for police investigation or to take cognizance and proceed with pre-summoning evidence. This discretion has been upheld in **Priyanka Srivastava v. State of U.P.**, (2015) 6 SCC 287, wherein the Supreme Court held that the power under Section 156(3) Cr.P.C. must be exercised judiciously and not mechanically.
5. In the present case, the Ld. Magistrate, after considering the facts, declined to send the matter for investigation and instead took cognizance, listing it for pre-summoning evidence. The revision petition against this was dismissed by the Ld. Sessions Court.
6. This Court has examined the order of the Ld. Sessions Court, which is a well-reasoned order. There is no illegality or infirmity in the order of the Ld. Magistrate, whereby the application under Section 156(3) Cr.P.C. was dismissed and cognizance was taken. Similar views were expressed in **Skipper Beverages Pvt. Ltd. v. State**, 2001 SCC OnLine Del 506, wherein it was held that the discretion of the Magistrate in deciding whether to send a case for police investigation should not be



interfered with unless there is an abuse of process.

7. In view of the settled legal principles and the absence of any illegality, incorrectness, or infirmity in the impugned order passed by the Ld. Sessions Court, I find no reason to interfere with the same.
8. Accordingly, the present petition stands dismissed.

DINESH KUMAR SHARMA, J

DECEMBER 5, 2024/AR/HT