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

+ CRL.M.C. 1947/2018, CRL.M.A. 29181/2018, CRL.M.A.
30855/2023 & CRL.M.A. 30856/2023

JAGDISH PRASAD AGGARWAL

.....Petitioner

Through: Mr. Naman Joshi, Mr. Guneet Sidhu,
Mr. Amber Tickoo, Advs.

versus

THE STATE GOVT OF NCT OF DELHI & ORSRespondents

Through: Mr. Hemant Mehla, APP for State.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

03.12.2024

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1. The present petition had been filed under section 482 Cr.P.C. challenging the impugned order dated 06.03.2018 passed by Ld. Special Judge, CBI, Tis Hazari Courts, Delhi, in criminal revision no. 75/2016 dismissing the revision and upholding the order dated 20.12.2017 passed by Ld. MM, Tis Hazari Courts, Delhi, in C.C. No. 6858/2017 whereby application under section 156(3) Cr.P.C. was dismissed.
2. The primary contention of the petitioner is that the respondents executed a sale deed dated 07.05.2015 in contravention of a *status quo* order passed by the Delhi High Court in a civil suit. The petitioner sought registration of an FIR for offences under Sections 420/406/120B IPC. However, the Learned ACMM dismissed the application under Section 156(3) Cr.P.C. on the ground that the



dispute primarily involved civil transactions, and the complainant had access to all relevant facts and all the evidence is within the reach of the petitioner, making it appropriate for him to lead pre-summoning evidence rather than seeking a police investigation. The Learned Sessions Court, in its revisional jurisdiction, upheld the findings of the Learned ACMM and observed that while a civil dispute does not bar criminal proceedings, mere allegations of fraud without specific material to establish a criminal offence do not justify police investigation. The court further noted that there was no evidence to indicate that the respondents had dishonestly induced the petitioner into parting with any property or suffered wrongful loss as required under Section 420 IPC.

3. It is a well-settled law that the Revisional jurisdiction under Section 397 Cr.P.C. is limited to correcting jurisdictional errors, illegality, or material irregularity. Courts exercising revisional jurisdiction are not expected to re-evaluate evidence or act as appellate courts. In **Amit Kapoor v. Ramesh Chander**, (2012) 9 SCC 460, the Apex Court held that revisional powers must be exercised sparingly and only in cases where there is a patent error, jurisdictional defect, or gross miscarriage of justice.
4. In the present case, the orders of the Learned ACMM and the Learned Sessions Court do not suffer from any legal infirmity warranting interference. Further, Section 156(3) Cr.P.C. empowers the Magistrate to direct police investigation before taking cognizance. However, such discretion must be exercised judicially and is not to be invoked mechanically. In **Priyanka Srivastava v. State of U.P.**, (2015) 6 SCC



287, the Apex Court held that a Magistrate should ensure that an application under Section 156(3) Cr.P.C. is supported by necessary preliminary material and a prior complaint to the police. The Learned ACMM, in the present case, exercised judicial discretion by taking cognizance and directing the complainant to lead pre-summoning evidence under Sections 200 and 202 Cr.P.C. instead of ordering a police investigation.

5. Further, the Sessions Court rightly observed that the dispute primarily pertains to property ownership and execution of a sale deed, which is already the subject matter of a civil suit pending before the Delhi High Court. While criminal proceedings may be initiated alongside civil proceedings, there must be clear allegations of dishonest or fraudulent intent from the inception of the transaction. In **G. Sagar Suri v. State of U.P.**, (2000) 2 SCC 636, the Apex Court held that criminal complaints should not be used as a tool to pressurize parties in civil disputes.
6. Section 482 Cr.P.C. grants inherent powers to the High Court to prevent abuse of the process of law or secure the ends of justice. However, such power is to be exercised only in exceptional cases. In **State of Haryana v. Bhajan Lal**, 1992 Supp (1) SCC 335, the Apex Court enumerated the circumstances under which inherent powers can be exercised, including cases where the complaint does not disclose a prima facie offence or is manifestly attended with mala fide intention. The present case does not fall within any such category. The petitioner has an alternative remedy of leading evidence in trial, and no exceptional circumstance warrants the interference of this Court.



7. This Court finds that the orders of the Learned ACMM and the Learned Sessions Court are well-reasoned, legally sound, and free from any perversity or jurisdictional error. The discretion exercised by the Learned ACMM in directing the petitioner to lead pre-summoning evidence is in accordance with settled legal principles.
8. Accordingly, the present petition stands dismissed.

DECEMBER 3, 2024/AR/HT

DINESH KUMAR SHARMA, J