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

+ **CRL.M.C. 5037/2022, CRL.M.A. 20125/2022**

MADHU AGARWAL

.....Petitioner

Through: Mr. Sachin Jian, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP with Ms.
Upasna Bakshi, Advocate

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

19.02.2026

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1. By virtue of the present petition under *Section 482* of the Code of Criminal Procedure, 1973 (***Cr.P.C.***) read with *Section 227* of the Constitution of India, the petitioner seeks setting aside of the order dated 03.02.2019 (***impugned order***), passed by the learned Principal District & Sessions Judge, North West District, Rohini Courts, Delhi (***learned Sessions Court***) whereby the revision petition filed by the petitioner was dismissed and the order dated 03.10.2019 passed by the learned Metropolitan Magistrate, District North West, Rohini, Delhi (***learned Trial Court***) rejecting the petitioner's application under section 156(3) Cr.P.C. was affirmed.

2. It is the case of the petitioner that both that Courts below, while declining the relief of registration of FIR, have failed to appreciate that cognizable offence was committed by the respondents no. 2 & 3 and police investigation was necessary inasmuch as evidence regarding whether the respondent no.2 was competent to get the property in question



freehold by 30.04.2017 or whether there was any charge/ encumbrance over the property in question from December 2016 till April 2017; and/ or whether respondent no.2 was competent to sell the property in question on the day when agreement/ receipt of Rs.10,00,000/- was issued; and/ or why the respondents nos. 2 and 3 have refused to transfer the property in question after the receipt of earnest money; and/ or what was the actual sale price of the property in question; and/ or whether the transaction was a mere paper exercise to raise money during demonetisation.

3. In response, learned APP for the State, relying upon paragraph nos.13 and 14 of the impugned order, submits that the earnest money had already been refunded to the petitioner and no cognizable offence was made out.

4. In support thereof, learned counsel for the respondent no.2 submits that nothing material has escaped from the eyes of the two Courts below, particularly, since the earnest money had already been refunded back to the petitioner herein.

5. This Court has heard learned counsel for the parties.

6. *Prima facie*, this Court is not convinced with the assertions made in the present petition and/ or the arguments addressed *qua* thereof by learned counsel for the petitioner. In fact, this is more so whence the petitioner's application under *Section 156(3)* Cr.P.C. has not been disposed of summarily by the learned Trial Court, rather the parties have been relegated to the procedure(s) under *Section 200* Cr.P.C., which reflects the due application of mind by the learned Trial Court, while passing of the order dated 03.10.2019. Moreover, since the earnest money has been received back by the petitioner, *albeit*, after filing of the



complaint case, the same is also an additional factor which weighed with the Courts below.

7. On merits also, this Court is also in agreement with the findings rendered by the learned Sessions Court while dismissing the revision petition of the petitioner as under:-

“12. It is also clear that directions for investigation u/s Section 156(3) CrPC cannot be given by the Magistrate in a mechanical manner. Such a direction can be given only on the application of mind by the Magistrate. The Magistrate can direct investigation by the police if it feels that evidence is required to be collected with police assistance.

13. The status report filed by the police shows that respondent no. 2 is registered owner of the property in question which is clear from the verification of the documents so far. The earnest money has been refunded back to the revisionist. The cognizable offence is not made out.

14. The entire facts of the case show that entire evidence is within the knowledge of the revisionist. She can prove the allegations levelled against the respondents no. 2 and 3 by leading the evidence during the course of inquiry u/s 200 CrPC. The allegations made by the revisionist are not complex and complicated which need the assistance of police to carry out the investigation. The action taken report of the police does not show that any cognizable offence is made out. The revisionist can lead evidence in support of the allegations and entire facts on the record do not call to direct the police to register FIR.”

8. In view thereof, the present petition is dismissed.

9. Needless to say, the observations made herein on merits, if any, shall not be taken to be binding upon the parties and/ or the Courts below.

SAURABH BANERJEE, J

FEBRUARY 19, 2026/bh