



2025:DHC:916



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

% *Date of decision: 7th February, 2025*

+ **CRL.M.C.5418/2017**

1. SUMAN DEVI
W/o Late Sh. Dharmabir
R/O Village and PO Daulatpur,
Najafgarh, Delhi

2. AJAY YADAV
S/o Late Sh. Dharmabir
R/O Village and PO Daulatpur,
Najafgarh, Delhi

3. SANDEEP YADAV
S/o Late Sh. Dharmabir
R/O Village and PO Daulatpur,
Najafgarh, Delhi

.....Petitioners

Through: Mr. Davinder N. Grover &
Mr. Yash Vardhan Mittal,
Advocates.

Versus

1. STATE OF N.C.T.
2. BIJOY KUMAR
S/o Chandra Bhanu Sharma
Secretary, IOCL Officers Society
R/o J-86/12 Top Floor, Dilshad Garden
Delhi

.....Respondents

Through: Mr. Satinder Singh Bawa,
Additional Public Prosecutor
for Respondent No.1-State
with SI Dharamvir.



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Mr. Shyam Kumar,
Advocate for Respondent
No.2.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Petition under Section 482 of *Code of Criminal Procedure, 1973* ('Cr.P.C.' hereinafter) has been filed against the Order dated 11.04.2017 of the learned Sessions Court, reversing the Order dated 08.03.2017 of the learned Metropolitan Magistrate, directing registration of FIR against the Respondents.
2. Briefly stated, the Petitioner No.1-Suman Devi is the wife and Petitioners No.2 and 3 are sons of late Sh. Dharambir, who was the Owner of 11 Bighas 1 Biswa and 13 Biswani of land bearing Mustil No. 15, Kila No. 11/2 (2-4) 18/2 (2-8), 19/2 (2-8), 20 (4-16), 23 (4-16), Mustil No. 16 Qila No. 13/2 (1-16), 14 (4-16), 15 (4-16), 16 (4-16), 17 (4-16), 18 (4-16), Mustil No. 22 Kila No. 4 (4-4), 7(4-12), 8(4-16), 12/2 (2-2), 13(4-16), 18(3-8), 27(0-4), situated in the Revenue Estate of village Daulatpur, Tehsil- Kapashera, Distt. South West, New Delhi.
3. Respondents No. 3 and 4, who are in the business of property dealing and were known to the Complainant-Sh. Dharambir being co-villagers, informed husband of the Petitioner that Respondent No.2 Bijoy Kumar is interested to purchase his property. The deceased-Complainant confirmed to Respondent No.2 Bijoy Kumar that he was interested to sell only 10 bighas of land and rest of the abovementioned land would be in



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his possession for his personal use. The Complainant had a blind faith on the Respondents and *without checking the averments of the Agreement*, entered into Agreement to Sell dated 05.08.2013 in respect of 10 bighas of land. *Respondent No.2* Bijoy Kumar issued two cheques bearing No.299565 dated 28.07.2013 for amount of Rs.21, 00,000/- and Cheque No.295580 dated 08.08.2013 for an amount of Rs.74,00,000/- in the name of the Complainant.

4. The Petitioners have averred that in the Sale Deed, amount of Rs.1,11,60,869/- has been surreptitiously added subsequently as the cash payment. Furthermore, the Agreement was entered for entire 11 bighas of land instead of 10 bighas of land, as was agreed. It is submitted that the aforesaid act has been committed on behalf of Respondents No.2 and 3 and therefore, an FIR was liable to be registered against Respondents No. 2 and 3 for forgery and cheating.

5. The Petitioners preferred a Request letter dated 23.12.2013 followed by Letter dated 09.01.2014 to the concerned SDM with request to not mutate the land in the name of Respondent No.2. The Petitioner also made a Police Complaint to the SHO, Kapasehra to take action against the Respondents. However, he was threatened by the Respondents to not oppose the mutation case.

6. The Petitioners preferred a Complaint under Section 200 Cr.P.C. under Sections 420/406/468/471/506/120-B/34 of the *Indian Penal Code, 1860* ('IPC' *hereinafter*) along with an Application under Section 156(3) Cr.P.C. before the learned Metropolitan Magistrate, who considering the contents in the complaint, directed registration of the FIR *vide* Order



dated 08.03.2017.

7. The Respondent preferred Criminal Revision Petition before the learned Additional Session Judge who set aside the Order directing registration of the FIR, vide Order dated 24.03.2017.

8. Hence, the present Petition has been filed by the Petitioners, seeking setting aside of Order dated 11.04.2017 passed by the learned Session Judge and direct the police to register the FIR and investigate the case as per law. It is asserted that this was a fit case where the FIR should have been directed to be registered. The investigations required to be carried out, is beyond the reach of the Complainant and the police assistance is required for collection of requisite facts. Reliance has been placed upon decision in XYZ Vs. State of Madhya Pradesh and Others 2023 (9) SCC 705.

9. **Submissions heard and record perused.**

10. The Complainant/ Petitioners have claimed a fraud to have been committed on two counts; firstly, that the Agreement to Sell dated 05.08.2013 was in respect of 10 bighas of land, while the Sale Deed has been executed for 11 bighas. Secondly, the cash component is reflected to have been paid, but this is an insertion made subsequently, reflecting forgery on behalf of the Respondents.

11. First challenge is in regard to the total area of land as mentioned in the Sale Deed. It is pertinent to note that the Petitioners assertion about the Agreement being in respect of 10 bighas of land, is premised on an Agreement to Sell, but it does not bear the signatures of the Respondent. It has only the Signatures of the Complainant and cannot be considered as



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a binding document. Moreover, the respondents have asserted that in fact no Agreement to Sell was ever executed between the parties and after oral negotiations, the Sale Deed was executed directly.

12. Further, the Complainant had obtained *No Objection Certificate* dated 03.09.2013 in respect of entire land, which has been granted on 03.09.2013. Furthermore, the Tehsildar *vide* Order dated 03.12.2013 has allowed the Mutation and it was specifically mentioned that there was no fraud or forgery committed.

13. The *second challenge is in regard to wrong insertion of cash component inserted subsequently*. The Sale Deed consistently mentions the sale consideration as Rs.10,29,82,639/-. Even though the cash component has been written in ink subsequently and is not typed, but when the four figures are added together, it amounts to Rs.10,29,82,639/-. Therefore, the amount as mentioned in the Sale Deed, corresponds to the details of payments as mentioned in various paragraphs of the Sale Deed. Merely because cash component has been added in pen, does not make the document a forged and fabricated document, especially when the printed amount corresponds to the details mentioned in paragraph-2 of the Sale Deed.

14. Furthermore, there is a Certificate of the Registrar annexed to the Sale Deed wherein it has been certified that the entire contents of the Sale Deed have been explained and understood by the parties. Thus, it cannot be said that there is any manipulation in the Sale Deed in regard to the sale consideration.

15. These two documents clearly reflect that Sale Deed was duly



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executed by the Complainant in favour of respondents. At this stage there is nothing to infer that there is a manipulation in the Sale Deed. Be as it may, this is not a case where the evidence is required to be collected by the police. The entire evidence is essentially documentary, which is in the power and possession of the Complainant.

16. The learned Additional Session Judge has rightly observed that it is not a case where discretion under Section 156(3) Cr.P.C. is required to be exercised and thereby, justifiably set aside the Order dated 08.03.2017 of the learned Metropolitan Magistrate.

17. The matter in any case is listed for evidence under Section 200 Cr.P.C. It may be observed that it is not the case that the registration of the FIR has been outrightly rejected, but has only been deferred, to be considered after the evidence is led by the Complainant.

18. There is no infirmity in the impugned Order and the Petition is hereby dismissed.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 07, 2025

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