



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

% *Reserved on: 24th February, 2025*
Pronounced on: 22nd May, 2025

+ **CRL.M.C. 2560/2017**

P.C. AGRAWAL

S/o Late Sh. Haridas Agrawal
R/o D-696, C.R. Park,
New Delhi.

.....Petitioner

Through: Ms. Pallavi Sharma, Mr. Kamal, Mr.
Saurabh and Mr. Manish Kumar,
Advocates.

versus

1. **STATE**
Through Standing Counsel
Government of N.C.T, New Delhi
2. **ASHOK BISWAL**
S/o Late Sh. Jagbandhu Biswal
R/o 97, South Park Apartments,
Kalkaji, New Delhi-110019
3. **NIRSHARNI BISWAL**
W/o Ashok Biswal
R/o 97, South Park Apartments,
Kalkaji, New Delhi-110019
4. **B.N. CHAKRAVOTI**
S/o Late Sh. H.P. Chakravorti
R/o House No.264/2, Purani Mandi,
District Mandi,
Himachal Pradesh-175110



5. **SMT. SATI BHATACHARJEE**

W/o R.K. Bhatarcharjee
R/o House No.241, Nitikhand-II,
Indirapuram, Ghaziabad,
Uttar Pradesh-201012

6. **SMT. TAPTI CHKRAVORTI**

W/o Late Sh. B.P. Chakravorti
R/o C-134J, Surya Nagar,
Ghaziabad, Uttar Pradesh-201011

....Respondents

Through: Mr.Nawal Kishore Jha, Additional
Public Prosecutor for Respondent/
State.
Mr. T V George, Advocate for
Respondent No.5.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C"*) has been filed on behalf of the Petitioner, Sh. P.C. Agrawal, for quashing of Judgment dated 24.04.2017 in Criminal Revision No. 204168/2016 arising out of Complaint Case 380/1, whereby the Order dated 19.05.2014 of the Ld. M.M. dismissing the Application under Section 156(3) Cr.P.C., has been upheld.

2. ***Briefly stated***, the Respondent No.2, Sh. Ashok Biswal approached the Petitioner, Sh. P.C. Agrawal in July, 2008 for the sale of property bearing No. E-929, C.R. Park, New Delhi admeasuring 160 Sq. Yard (*hereinafter referred to as "Property"*). Respondent No.2, Ashok Biswal



represented himself as a Property Dealer/Developer and fraudulently represented that he is the sole and absolute owner of the Property and also represented that the Property was free from all encumbrances.

3. Respondent No.2, Sh. Ashok Biswal also mentioned that he had purchased this Property from Respondent No.4 to 6 by virtue of an Agreement to Sell dated 27.12.2005 for a total consideration of Rs.1.50 Crores and that he had already paid a sum of Rs.1.35 Crores and that he had a right to nominate and assign to his nominee. The copy of the Agreement to Sell along with other relevant documents, were shown to the Petitioner, Sh. P.C. Agrawal. He was thus, induced to buy the Property at a lucrative price.

4. The Petitioner, Sh. P.C. Agrawal on the assurances and representations given by Respondent No.2, Sh. Ashok Biswal agreed to enter into the Agreement to Sell dated 16.07.2008. Pursuant to this Agreement, he gave a sum of Rs.55 Lakhs to Respondent No.2, Sh. Ashok Biswal. Respondent No.2, Sh. Ashok Biswal in return handed over the copy of Agreement to Sell dated 27.12.2005 to the Petitioner, Sh. P.C. Agrawal.

5. It is claimed that the balance sale consideration of Rs.2.63 Crores was required to be paid on or before 31.01.2009. The Respondent No.2, Sh. Ashok Biswal did not fulfil his commitments and failed to hand over the vacant possession to the Petitioner, Sh. P.C. Agrawal by 31.01.2009.

6. Respondent No.2, Sh. Ashok Biswal blatantly told the Petitioner, Sh. P.C. Agrawal that he is not going to transfer the Property to the Petitioner, Sh. P.C. Agrawal in execution of the Agreement to Sell dated 16.07.2008.



7. The Petitioner, Sh. P.C. Agrawal filed Civil Suit bearing No. CS(OS) 197/2012 for Specific Performance of Agreement to sell dated 16.07.2008 before this Court, in which the Notice had already been issued to the Respondents.

8. Respondent No.2, Sh. Ashok Biswal on coming to know about the filing of the Suit, had approached the Petitioner, Sh. P.C. Agrawal for Settlement of disputes. They accordingly entered into an MOU dated 31.01.2012 to settle all their disputes and it was agreed that 72.50 Lakhs shall be paid. However, with a dishonest intention, Respondent No.2, Sh. Ashok Biswal did not make payment pursuant to the MOU dated 31.01.2012.

9. Written Statement in the Civil Suit bearing No. CS(OS) 197/2012 has been filed by Respondent No.2, Sh. Ashok Biswal, wherein he has asserted that he is the owner of the Property by virtue of an Agreement to Sell dated 27.12.2005. However, the original owners i.e. Respondent No.4 to 6 categorically denied the execution of Agreement to Sell dated 27.12.2005 in favour of Respondent No.2, Sh. Ashok Biswal at any point.

10. During the pendency of the Civil Suit bearing No. CS(OS) 197/2012, it has come to the knowledge of the Petitioner, Sh. P.C. Agrawal that on 23.05.2011, Respondent No.4 to 6 in collusion with Respondent No.2, Sh. Ashok Biswal and Respondent No. 3, Smt. Nirjharni Biswal in order to defeat the legitimate claims of the Petitioner, Sh. P.C. Agrawal, got the Sale Deed executed in favour of Respondent No.3, Smt. Nirjharni Biswal i.e wife of Respondent No.2, Sh. Ashok Biswal, on 23.05.2011. The sale



consideration is far below the agreed consideration and it has caused a substantial loss *vis-a-vis* the price. The transfer is nothing but a fraud which has been committed in a pre-planned manner.

11. It is further claimed that on one hand, Respondent No.4 to 6 are the original owners who are alleging forgery on the part of Respondent No.2, Sh. Ashok Biswal qua Agreement to Sell dated 27.12.2005; on the other hand they had executed the Sale Deed in favour of Respondent No.3, Smt. Nirjharni Biswal who is the wife of Respondent No.2, Sh. Ashok Biswal.

12. It has further come to the knowledge of the Petitioner, Sh. P.C. Agrawal that on 02.08.2006, Respondent No.2, Sh.Ashok Biswal with dishonest intention had already agreed to Sell the Property to one Sh. Kewal Kishore and one Sh. Rahul Gupta vide two separate Agreement to Sell dated 02.08.2006. It has also come to the knowledge of the Petitioner, Sh. P.C. Agrawal that Agreement to Sell dated 27.12.2005 which was shown to him at the time of Agreement dated 16.07.2008, is different from the Agreement to Sell dated 27.12.2005 which was shown to Sh. Kewal Kishore and Sh. Rahul Gupta.

13. It was thus, alleged that the Respondents had committed the offence under Section 420/464/476/468/471 & 120B Indian Penal Code, 1860, in which he made a Complaint to the SHO P.S. C.R. Park, New Delhi on 03.12.2013 on which no action was taken.

14. Aggrieved by the illegal acts of the Investigating Agency, the Petitioner, Sh. P.C. Agrawal moved an Application under Section 156(3) Cr.P.C and sought registration of FIR but the Ld. M.M has erroneously



dismissed the Section 156(3) Application, without taking the circumstances and the material into consideration.

15. Pertinently, Respondent No.2, Sh. Ashok Biswal and Respondent No.3, Smt. Nirjharni Biswal reiterated in their Reply that Respondent No.2, Sh. Ashok Biswal is the owner of the Property by virtue of the Agreement to Sell dated 27.12.2005. However, Respondent No.4 to 6 specifically denied their signatures on this Agreement to Sell and of any other date, alleging forgery. The Respondent No.4 to 6 in collusion with each other, in order to defeat the legitimate claims of the Petitioner, Sh. P.C. Agrawal, are alleging forgery of signatures against Respondent No.2, Sh. Ashok Biswal with regard to the Property worth crores, but not a single Criminal Complaint has been filed against him.

16. Ld. ASJ has failed to consider that Agreement to Sell dated 27.12.2005 is a forged document and therefore, the Application under Section 156(3) Cr.P.C has been wrongly dismissed by learned M.M and the Order upheld by learned ASJ.

17. Reliance has been placed on Lalita Kumar vs. Govt. of U.P 2014 (2) SCC 1; Ramesh Kumari vs. State 2006 (2) SCC 677; Lallan Chaudhary vs. State of Bihar 2006 (12) SCC 229 and Adarsh Kumar Gill vs. State of NCT 2013 (134) DRJ 550.

18. ***Respondent No.2, Sh. Ashok Biswal and Respondent No. 3-Smt. Nirjharni Biswal did not contest the present Petition.***

19. The Respondent No.4 to 6 who were the original owner of the Property in question, had disclosed that the Property was originally owned



by their father Mr. Hari Pada Chakravorty. After his demise on 05.09.1974, the Property devolved upon his wife and three children including the answering Respondent No.5, Smt. Sati Bhattacharjee. The off springs relinquished their respective rights in favour of their mother, Smt. Indu Pada Chakravorty and her name was substituted in the records in the year 1993.

20. On 09.10.1998, Smt. Indu Pada Chakravorty executed her last Will vide which she bequeathed her entire Property to her son Respondent No.4- Sh. B.N. Chakravorty, her daughter Respondent No. 5, Smt. Sati Bhattacharya and her daughter-in-law Respondent No.6, Smt. Tapati Chakravorty. They have full rights to jointly sell, transfer the property by mutual consent and to share the proceeds equally. In case no sale is effected, the existing Ground Floor of the building was to devolve upon the daughter Respondent No.5, Smt. Sati Bhattacharya. Respondent No.4, B.N. Chakravorty was given the right to construct and enjoy the First Floor while Respondent No.6, Smt. Tapati Chakravorty wife of her second son who pre-deceased her had a right to construct and enjoy the Second Floor.

21. Sometime in the year 2001, one Sh. Piyush Dutta was permitted to reside in the rear portion of the Property and he used to help Smt. Indu Pada Chakravorty in case of urgency. He was paying a monthly License Fee of Rs.2,500/- which was subsequently raised to Rs.3,000/- per month.

22. In October, 2003, Smt. Indu Pada Chakravorty became ill and she shifted to the house of Respondent No.4, Sh. B.N. Chakravorti at Ghaziabad, where she expired ultimately on 01.07.2004. Before her demise, Smt. Indu Pada Chakravorty expressed her desire to Respondent No.5, Smt. Sati



Bhattacharjee that the existing Ground Floor of the Property should not be sold and must be retained. During the illness of Smt. Indu Pada Chakravorty and especially after she shifted to the house of the Respondent No. 5, Smt Sati Bhattacharya, Sh. Piyush Dutta who had been permitted to stay in the back portion of the Property started extending his possession illegally to other portions of the building and Property and also stopped paying License Fee.

23. On 05.05.2005, Respondent No.4, Sh. B.N. Chakravorty elder son of Smt. Indu Pada Chakravorty sent a Legal Notice to Sh. Piyush Dutta for handing over the peaceful possession of the Property, but he did not vacate; instead, he filed another Civil Suit claiming himself to be a tenant on the basis of forged documents and continued in possession of the Property.

24. In the mean while, on 04.12.2007, the Leasehold rights of the Property were converted in favour of legal heirs of Smt. Indu Pada Chakravorty and subsequently on 03.02.2009, the Leasehold rights were converted into freehold rights.

25. After the demise of Smt. Indu Pada Chakravorty, Respondent No.2- Sh. Ashok Biswal started contacting the legal heirs of Smt. Indu Pada Chakravorty and offered his assistance to evict Sh. Piyush Dutta from the illegal possession and also expressed his desire to purchase the Property. However, there was no written Agreement executed between the parties.

26. Subsequently, a proposal came from Respondent No.2, Sh. Ashok Biswal to purchase the Property in favour of his wife, Respondent No.3,



Smt. Nirjharni Biswal, but the Respondent No.5, Smt. Sati Bhattacharjee refused to do so in deference to the wishes of her late mother.

27. However, Respondent No.2, Shri Ashok Biswal and his wife, Respondent No.3, Smt. Nirjharni Biswal persuaded Respondent No.5, Smt. Sati Bhattacharjee to develop the Property and instead of existing Ground Floor, he would be given rear half portion of the Lower Ground Floor consisting of one drawing room, 2 bed rooms with attached toilets and one kitchen of the proposed new building with complete fixtures and fittings.

28. Though, initially the Respondent No.2, Sh. Ashok Biswal wanted to retain the Ground Floor of the newly constructed building, ultimately, Respondent No.5, Smt. Sati Bhattacharjee agreed to retain the rear half portion of the new building. She also agreed to hand over her interest in the Property in the name of Respondent No.3, Smt. Nirjharni Biswal W/o Ashok Biswal, Respondent No.2 for construction of the building. The front portion of the Lower Ground Floor was to be reserved for parking.

29. Two Deeds were executed on 23.05.2011; one of transferring the property in favour of Respondent No.3, Smt. Nirjharni Biswal by all the legal heirs of Smt. Indu Pada Chakravorty. By the other Agreement, Respondent No.3, Smt. Nirjharni Biswal agreed to sell the Lower Ground Floor of the Property to the Respondent No.5, Smt. Sati Bhattacharjee after reconstruction of the property. However, he has not received any consideration for transfer of her 1/3rd share in the aforesaid Property.

30. It is stated that in the said Agreement, a consideration of Rs.10 lakhs was already received by Respondent No.3, Smt. Nirjharni Biswal in full and



final satisfaction of the consideration for transferring the rear Lower Ground Floor portion. The Sale Deed dated 23.05.2011 was accordingly executed pursuant to Agreement dated 23.05.2011.

31. Thereafter, Respondent No.3, Smt. Nirjharni Biswal demolished the entire property. However, before completion of the building in the year 2013, Respondent No.5, Smt. Sati Bhattacharjee came to know that a Civil Suit No. CS(OS)196/2012 had been filed by Petitioner, Sh. P.C. Agrarwal against Respondent No.2, Sh. Ashok Biswal and others, for Specific Performance in respect of Agreement to Sell dated 16.07.2008, executed between Respondent No.3, Smt. Nirjharni Biswal and the Petitioner, Sh. P.C. Aggarwal. The issues were discussed between them and Respondent No.5, Smt. Sati Bhattacharjee being an elderly lady, trusted the assurances of Respondent No.2, Sh. Ashok Biswal and Respondent No.3, Smt. Nirjharni Biswal.

32. In the mean while Civil Suit No. CS (OS) 1586/2014 also got filed of which the Summons were served upon Respondent No.5, Smt. Sati Bhattacharjee. Additionally, Respondent No.5, Smt. Sati Bhattacharjee also received Notice in **Criminal Revision Petition No.28/2014** registered on the Criminal Complaint of Petitioner, Sh. P.C. Aggarwal.

33. Respondent No.5, Smt. Sati Bhattacharjee then came to know that Respondent No.3, Smt. Nirjharni Biswal had forged the signatures of Late Smt. Indu Pada Chakravorty on the Agreement dated 27.12.2005 and the Respondent No.4 to 6 purportedly agreed to enter into Agreement to Sell in property in favour of Respondent No. 3, Smt. Nirjharni Biswal. On the basis



of this forged Agreement, Respondent No.3, Smt. Nirjharni Biswal further entered into Agreement to Sell with Petitioner, Sh. P.C. Agrawal and the had received Rs.50 Lakhs.

34. It is submitted that to the knowledge of the Respondent No.5, Smt. Sati Bhattacharjee, one Sh. Rahul Gupta and Sh. Chittrajan Roy Choudhary had been deceived by Respondent No.3, Smt. Nirjharni Biswal on the basis of forged Agreement to Sell dated 27.12.2005.

35. All the averments made in the Complaint are denied. It is submitted that the Application under Section 156(3) Cr.P.C. had been dismissed on 24.07.2017 against which a Revision was filed which has also been rightly dismissed.

36. *Similar Reply has been filed on behalf of Respondent No.6-Smt. Tapati Chakravorty.*

37. Submission heard and record perused.

38. From the entire conspectus of facts, it is quite evident that the disputes inter-se the parties are in respect of various Agreement to Sell that had been executed from time to time. It cannot be overlooked that the Petitioner, Sh. P.C. Agrawal and Respondent No.2, Sh. Ashok Biswal even entered into an MoU dated 31.01.2012.

39. Ld. M.M has rightly observed that all the facts are within the knowledge of the Petitioner, Sh. P.C. Agrawal. There are also two Civil Suits which have been filed inter-se the parties.



40. The Application under Section 156(3) Cr.P.C has been rightly dismissed by the Ld. M.M on 19.05.2014, which Order has been upheld by the Ld. ASJ.

41. There is no merit in the present Petition which is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 22, 2025

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