

**IN THE COURT OF SH. SHIVAJI ANAND, ADDITIONAL SESSIONS
JUDGE-04, NORTH DISTRICT, ROHINI COURT, DELHI**

Criminal Revision No: 74/2021

In the matter of Sukho Devi Vs State (NCT of Delhi)

CNR no. DLNT01-004557-2021

**Smt. Sukho Devi
W/o late Sh. Ram Lal
R/o H.No. 279, Gali no. 7,
Gautam Colony, Narela,
Delhi-110040**

.....Revisionist

VERSUS

The State (NCT of Delhi)

.....Respondent

Date of Institution	:	22/06/2021
Date of Arguments	:	20/12/2021
Date of order	:	20/12/2021

20/12/2021

Present :Sh. Pankaj Kumar and Ms. Rashmi, ld. counsels for
:the revisionist.
:Sh. Sanjay Jindal, ld. Addl. PP for the
:respondent/State.

Arguments on application u/s 5 of Limitation Act as well
as on appeal were heard.

In view of the reasons mentioned in the application u/s 5
of Limitation Act, the delay in filing the revision petition is condoned.

Perused the record.

ORDER ON REVISION

1. The present revision petition u/s 397 read with Section
399 CrPC has been filed by the revisionist-accused against the
impugned order dated 03/03/2021 passed by Ms. Divya Malhotra, ld.

MM-01, North District, Rohini Courts, Delhi, in case FIR no. 149/14, PS Narela, titled as State Vs Sukho Devi, whereby order on charge was passed and prima facie offences u/s 448/468/471/420 IPC were ordered to be made out against the accused (revisionist herein) and also to impugned order dated 22/03/2021, whereby the charge for the aforesaid offences was framed against the accused(revisionist herein).

2. The brief facts necessary for disposal of the present revision petition are that complainant Narain Singh Maharda gave a complaint dated 01/03/2013 to Commissioner of Police that he is the absolute and exclusive owner and title holder of property bearing no 279, Gali NO. 7, Gatnam Colony, Narela, Delhi-40 and accused Sukho Devi (revisionist herein) and her son have illegally and unlawfully occupies his aforesaid property and Sukho Devi had also obtained the electricity connection bearing K.No. 43207022666C in her name and in the name of Om Parkash (since deceased), for which, no permission was given by him (complainant). He further claimed that on 21/02/2013, at about 7.00 p.m., when he visited the said property and questioned the accused persons about installation of electric connection without his permission, the accused persons told him that they obtained the same after forging and fabricating the documents and also threatened him in filthy language by saying "*chamar agar hamare khilaf complaint ki to tujhe jaan se maar denge*" and had thrown him on the floor by tearing his clothes. Neither any action nor any FIR was registered against the alleged accused persons and as such the complainant Narayan Singh filed a complaint u/s 200 CrPC for the offences 403/405/406/415/420/442/461/467/471/474/475/506/

120B/34 IPC and 3/4 of Schedule Caste and Schedule Tribe Act against Sukho Devi (revisionist herein) and her son Rahul. Along with the complaint, application u/s 156(3) CrPC was also filed. Status report was called. Vide order dated 30/01/2014, SHO PS Narela was directed to register FIR in the present matter against the wrong doers under appropriate Sections of law, without being influenced by the Sections mentioned in the complaint. Pursuant to such directions, FIR of the present case was registered u/s 448 IPC and investigation was done. during investigation, statements of witnesses were recorded and it was revealed that complainant Narayan Singh had bought a plot in the name of his wife Chanderwati bearing no. 279, Gali n o. 7, Gautam Colony, Narela, Delhi in Khasra no. 50/4, 125 square yards and one plot was in the name of Narayan Singh in Khasra n. 50/60/2, 50 square yards, total 175 Square yards from one Raghunath and Chotan s/ Daya Ram, Village Narela, Delhi, which were joint plots and Narayan Singh built two rooms on the said plot in lived there till 1989 and in 1990, he gave said plot to Ram Lal Sharma for living in which accused Sukho Devi (revisionist herein) is residing with his family. During investigation, Sukho Devi (revisionist herein) produced the photocopies of documents of the house i.e. GPA, which were executed by Jeevan Singh s/o Shiv Lal R/o Village Narela, Delhi, in favour of her late husband Ram Lal Sharma on 14/06/1981 and said Jeevan Singh and Ram Lal had already expired. Accused Sukho Devi (revisionist herein) has disclosed that said documents were handed over to her by her husband by saying that said plot was purchased by him and since 1989 to 2002, no owner has come forward to vacate the said house and in the year 2007, she (revisionist herein) had got installed one electric

meter and got the receipt by depositing the property tax in MCD and she was residing there since 1990 along with her family. The documents in question were got verified from Sub Registrar-II, Kashmiri Gate, Delhi-06 and the same were found in the name of Narayan Singh (complainant) and his wife Chanderwati. It was also revealed during investigation that Sukho Devi was not vacating the plot and was illegally residing in the same. On completion of investigation, charge-sheet was filed against the accused Sukho Devi (revisionist herein). Cognizance was taken. Vide the impugned order dated 03/03/2021, order on charge was passed and vide order dated 22/03/2021, charges were framed against accused Sukho Devi.

3. During course of arguments, ld. counsel for the revisionist has submitted that impugned orders are liable to be set aside as the ld. MM failed to apply her judicial mind while passing the same. He has further submitted that no case u/s 44845/468/471/420 IPC is made out against the revisionist, hence, the impugned orders are liable to be set aside. he has further submitted that ld. MM has failed to consider the fact that complainant could not produce even a single corroborative evidence which could have given credence to his version. He has further argued that impugned orders of ld. Trial Court are based on surmises and conjectures and has no force in the years of law. He has further argued that ld. Trial Court did not consider the fact that late husband of the revisionist was the actual and lawful owner of the property in question vide GPA dated 14/06/1981 and after death of her husband, the revisionist is the actual and lawful owner of the property in question. He has further submitted that ld. Trial Court did not consider

the fact that the complainant does not have better title than the revisionist as the complainant is also claiming his title through GPA pertaining to the year 1984. He has further argued that ld. Trial Court did not consider the fact that the revisionist and her family members are in the physical possession of the property in question since 35 years. He has lastly prayed for setting aside the impugned orders.

4. On the other hand, ld. Addl PP for the State/respondent has argued that the impugned order passed by ld. Trial Court is fully justified.

5. Heard. Both accused (revisionist herein) and the complainant are relying upon the "GPA" documents. While the accused side is having photocopies, the complainant is having original documents. Both the GPAs are attested by the attorneys only and the same are not even the registered documents. Though there is one statement with regard to the accused GPA by a witness namely Naresh Kumar s/o late Jeevan Singh, who claimed that his father used to sign in "English" language and he had never seen his father signing in "Hindi" language and he produced photocopies of some documents containing the signature of his late father. The said witness did not make any reference qua the document of accused (revisionist herein). The same is not sufficient to say that the GPA produced by the accused is forged one as one might have done signature in "Hindi" also. Secondly, as per the investigating agency, the accused GPA relates to the year 1981 and she and her son (since deceased) were able to get an electricity connection in the year 2007 subsequent to the death of her

husband. So, it is very difficult to attribute that the revisionist was having dishonest intention or that she was actually aware that the GPA document given to her by her husband were forged one as she was residing in the same property. Nothing has come on record with regard to the fact that they were aware about the forged documents, hence, the dishonest intention cannot be attributed to the revisionist. Even otherwise, it is duty of the prosecution to place the evidence before the Court to establish the guilt of the accused. In this regard, reliance is placed on the judgment of Hon'ble Supreme Court in the case of **Satish Nirankari Vs State of Rajasthan, 2017[3]JCC 1726, wherein in para no. 27, it has been held that "primary burden always remains on the prosecution to establish the guilt of the accused, which is not only cardinal principle of the criminal jurisdiction, but also enshrined in Section 101 of Evidence Act."** In the first instance, the matter needs to be examined from the angle as to whether the prosecution has been able to prove the guilt. Merely that the revisionist has not been able to produce the original copy of the GPA, it cannot be assumed that the same was false and fabricated. Even the complainant has admitted that the husband of the revisionist was permitted to live in the property. So, even the offence u/s 448 IPC is not made out as the possession was given by the complainant himself. The revisionist is residing in the property in question for the last 35 years. When a person is staying in settle possession for such a long time, then invoking criminal law should be considered only when strong evidence is there on record. Even otherwise, when both the parties are claiming competitive right over the property in question. None of the documents pertaining to both the parties clearly establish title in favour of either party, it

would be unjustified to say that the documents of one party are false and the documents of the other party are genuine. Admittedly, the revisionist had been living in the property in question since 1981 and the complainant has stated that the husband of the revisionist was given possession in 1990. Nothing has been placed on record that the complainant ever visited the property in question or ever sought possession of the same. It is surprising that even despite death of husband of the revisionist, the complainant never bothered to take possession of the property. The documents of the complainant are not even registered. They are merely attested by the attorneys. In law, the same does not amount to have any title. The possession of the property in question was given peacefully and as such no dishonest intention can be attributed against the revisionist. In these circumstances, it would be unjustified to proceed further against the accused persons. Accordingly, the impugned orders dated 03/03/2021 and 22/03/2021 are set aside. The accused (revisionist herein) is discharged. The revision petition is allowed.

6. The revision petition is disposed of accordingly.
7. Let copy of this order be sent to Id. Trial Court.
8. Revision file be consigned to Record Room.

**Announced in the open Court
today i.e. on 20/12/2021**

(Shivaji Anand)
Additional Sessions Judge-04
North District/Rohini Courts/Delhi