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

+ **CRL.M.C. 4570/2022**

AKRAM KHAN

..... Petitioner

Through: Mr. Mohd. Danish, Mr. Vacher,
Advts.

versus

STATE & ORS.

..... Respondents

Through: Mr. Ajay Vikram Singh, APP for
State

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

14.09.2022

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CRL.M.A. 18549/2022

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 4570/2022

This is a petition seeking setting aside of the judgment dated 01.04.2022 passed by learned ASJ, South East District, Saket Courts, New Delhi in revision petition 272/2020 titled '*Mustaq Ali vs. Akram Khan*'.

In the present case, the petitioner filed an application u/s 156(3) Cr.P.C. for registration of an FIR u/s 420/467/468/120B/34 IPC stating that the respondents approached the petitioner for selling property bearing No. E-1/5 Khasra no. 332, area 100 sq. yds situated at village Ziauddinpur, Mustafabad Abadi Gali No. 1, Nehru Vihar, Dayal pur Elaka, Shahdara Delhi.



The respondents represented them as to be the owners of the said property and the petitioner agreed to purchase the property for a consideration of Rs. 50,00,000/-. The petitioner paid Rs. 10,00,000/- and on 12.08.2015 another Rs. 20,00,000/- was given to them at the time of agreement.

The respondents executed an agreement to sell in favour of the complainant. However, physical possession was never handed to the petitioner and later on it transpired that the property in question was sold to some other persons by the respondent.

Hence the petitioner filed the complaint and thereafter an application u/s 156(3) Cr.P.C.

The learned MM vide order dated 05.02.2022 recorded that as per the report of the IO, the IO was of the view that the petitioner was cheated of his hard earned money but no FIR was registered.

Hence the learned MM was pleased to direct registration of the FIR.

The respondents filed a revision petition Cr. 272/2020 against the said order dated 05.02.2020 of registration of FIR.

The learned Sessions Court vide the impugned judgment dated 01.04.2022 was of the view that since the matter is purely of a civil nature and breach of contract it hence suffered from jurisdictional error. The revision was allowed and the order of the learned MM was set aside.

Prima facie, I am of the view that the respondents having once received consideration and having entered into the agreement to sell and thereafter having sold the land to some other person attracts the ingredients of Section 420/467/468/120B/34 IPC.

For the reasons stated above, on petitioner taking steps, issue notice to



the respondents, including electronically, returnable on 13.01.2023.

JASMEET SINGH, J

SEPTEMBER 14, 2022/dm

Click here to check corrigendum, if any