

Siddharth Dhingra Vs. State and ors.

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Court : Delhi

Decided On : Jan-04-2011

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Penal Code (IPC) - Sections 380, 406, 420, 448, 452, 506, 120B;
Code of Criminal Procedure (CrPC) (Cr.P.C) - Section 156(3)

Appeal No. : W.P. (CRL.) 184 OF 2008

Appellant : Siddharth Dhingra

Respondent : State and ors.

Advocate for Def. : Ms Meera Bhatia, Adv.

Advocate for Pet/Ap. : Mr. S.M. Bhaskar; Mr. Anuj Malhotra, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the reporter or not?

3. Whether judgment should be reported in Digest?

1. This petition has been filed by the petitioner for quashing of FIR 760/2007, under Section 380/406/420/448/452/506/120B IPC, P.S. Punjabi Bagh.

2. The FIR is sought to be quashed on the ground that the matter in dispute was purely civil in nature and the respondents in connivance with each-other has given it a criminal colour by playing fraud upon the learned Metropolitan Magistrate.

3. No doubt a civil suit filed by the petitioner for his alleged rights was pending in this court being CS(OS) No. 851 of 2005. However, it was a case of fraud, trespass and cheating. The respondent No. 3 had earlier made a complaint to police in the year 2006 on the same facts and when police did not register a case, the respondent filed a Writ Petition bearing No. W.P. (Crl.) No. 1280 of 2006. The same was disposed of by this Court on the ground that an alternate remedy was available to respondent. Respondent then filed an application under Section 156(3) Cr. P.C. stating all material facts before learned MM which resulted into registration of FIR.

4. Brief facts relevant for the purpose of deciding this petition are that respondent No. 3 purchased property No. 20/26-B, East Punjabi Bagh from other two respondents in this petition viz Madhur Dhingra and Gaurav Dhingra who represented that they were having clear title over the property. The property was sold to respondent No. 3 by way of a sale deed after receiving entire consideration. However, the petitioner and other respondents connived with each-other to play a fraud and a part of the portion of property was not vacated by them and seller requested respondent No. 3 to enter into a rent agreement for a short time as they were to locate another accommodation for their parents living therein. The rent deed for first floor was executed with the respondent No. 3 on the excuse that they would soon vacate the accommodation and shift their parents at an alternate premise. Thereafter in order to deprive the respondent No. 3 of the entire property, the petitioner with other two respondents entered into a conspiracy and the locks of the ground floor portion, possession of which was with respondent No. 3 was also broken open and her entire articles, belongings were stolen and premises was trespassed and occupied. The respondent No. 3 approached police about this trespass in her property and theft of articles but the police did not register a case. Thereafter, she approached this court by way of a Writ Petition. This court showed her the door of MM and then she approached the court of MM with a complaint under Section 156(3) Cr. P.C. The learned MM after considering

all facts directed for registration of FIR.

5. It is not disputed that property in question was sold to respondent No. 3 by way of a registered sale deed after receiving entire consideration. It is also not disputed that in the sale deed itself the title has been shown as clear. It is, prima facie, evident that after the sale of property to her, the petitioner and his cousin brothers entered into a conspiracy to deprive respondent No. 3 of her property and they trespassed into the property and stole all her articles lying therein and even threatened her. I consider that learned MM rightly directed for registration of FIR. There was no reason to quash the FIR. The petition is hereby dismissed.

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