



Court to take cognizance of the offence and to proceed with the case in accordance with law.

3. Learned Addl. P.G for the state by supporting the impugned order has prayed for dismissal of instant appeal by contending that the matter is of civil nature, hence it was rightly dismissed by learned trial Court.

4. Heard arguments and perused the record.

5. It would be conducive to refer the relevant paragraph of the impugned order, which is that:

*“Moreover, the compliant has not disclosed in the complainant that he had actually received possession of alleged flat, nor he has disclosed date of receiving the possession of flat in question in the complaint, while he has stated in the complaint that one Ajaz Azam had sold the said property to Mst. Mumtaz Tahir, the said Ajaz Azam had obtained loan amount from HBFC through mortgage deed, and he sold out said property to Mst. Mumtaz Tahir, whereafter, the complainant purchased the said property from Mst. Mumtaz Tahir on 17.12.2002 through sale agreement, and sub-power of attorney was executed in favor of complainant on 22.11.2008, who cleared HBFC Loan amount on 04.04.2011. From the above statement of the complainant mentioned in the complaint, it is clear that the sale agreement does not create any title/ownership over the said property, while the alleged General Power of sub-attorney dated 08.11.2008 itself is not titled document in favor the complainant, while as per record, the respondent No.1 is residing in the said Flat since the year 2007/2008 and the complainant has not produced any titled documents of said flat in his name, nor any documentary proof that he remained in possession of the said flat. Furthermore, from the investigation report of police it appears that the complainant has not produced his witnesses before the I/O for recording their statements in support of claim of the complainant.”*

6. Record reflects that the respondent is in possession of the subject Flat since 2007/2008, which fact is admitted by the appellant. However, the appellant has not disclosed that when he received the physical possession of the subject Flat. Even he did not produce any witness before I.O for recording their statements in support of his claim. The respondent No.1 is claiming ownership of the subject Flat and has produced documents before the I.O, which shows that he purchased the subject Flat from one Muhammad Hussain, such documents have not yet been challenged before the appropriate forum. The police report also favours

the respondent No.1. The questions relating genuineness of documents and/or title could only be decided by a Civil Court of competent jurisdiction.

7. Under these circumstances, the impugned order passed by learned trial Court is well-reasoned; accordingly, instant Crl. Appeal is dismissed alongwith listed application.

JUDGE

Sajid