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

+ CRL.M.C. 3234/2011

SULTAN AHMAD SIDDIQUI Petitioner
Through : Mr. Praveer Singh, Advocate.

versus

STATE Respondent
Through : Ms. Jasbir Kaur, APP.

CORAM:
HON'BLE MR. JUSTICE M.L. MEHTA

ORDER
09.11.2011

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This is the petition against the order dated 1st August, 2011 of the learned MM whereby the application under Section 156(3) Cr.P.C. filed by the petitioner herein along with his complaint under Section 200 Cr.P.C. for registration of an FIR under Sections 382/506/120-B/34 IPC was dismissed. The learned MM relying upon the various judgments has declined the request of the petitioner for registration of FIR on the ground that the accused were named by the petitioner in the complaint and the identity of the accused is known to the complainant, there was no requirement of any investigation by the Police. It is also recorded by him that the recovery of the property is not required to convict the accused and what is important is the

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genuineness and trustworthiness of the evidence in this regard.

The counsel for the petitioner and learned APP are present. It is seen from the complaint as made by the petitioner that he has leveled allegations of theft against the offenders, some of whom are named in the complaint and others, according to him, were accompanying with them. The specific allegations are under Section 382 IPC. Even if the complainant may know some of the offenders, it would not be possible for him to know the names of others even by examination of his witnesses. From the allegations, as made out by the petitioner, it is apparent that the Magistrate seems to have erred in recording that the recovery was not required to convict the offenders. In a case under Section 382 IPC when the names of all the offenders were not known, the petitioner would be helpless to prove his case. The order being erroneous has caused miscarriage of justice and the same is set aside. The Police is directed to register an FIR and proceed in the case according to law.

The petition is disposed of.


M.L. MEHTA,J

NOVEMBER 09, 2011

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