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

+ W.P.(CRL) 1540/2011

SWAPNIL RAJ Petitioner

Through: Mr. Lalit Kumar Jha, Advocate.
versus

STATE Respondent

Through: Mr. Saleem Ahmed, Additional
Standing Counsel with SI Raj Pal
Sharma, PS Farsh Bazar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **14.11.2011**

Crl. M.A. No. 17715/2011 (Exemption)

Allowed, subject to all just exceptions.

W.P. (Crl.) 1540/2011 & Crl. M.A. No. 17714/2011 (Stay)

By this petition the Petitioner seeks quashing of the notice dated 31st October, 2011 issued by the Investigating Officer under Sections 160/91 Cr.P.C. to the Petitioner.

The contention of the learned counsel for the Petitioner is that the notice is actuated by malafide as the Petitioner had sent all the istridhan to the police station which the Complainant refused to accept. The police

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officer delivered a notice at home of the Petitioner. The officer did not make any attempt to interrogate him at home and instead called him to the police station for interrogation.

Learned Additional Standing Counsel points out that FIR No. 224/2011, has already been registered at PS Farsh Bazar, Delhi against the Petitioner and approval of arrest has been granted by the competent authority for the arrest of the Petitioner. He states when seven days notice was given to the Petitioner, the Petitioner did not accept it. Ultimately the notice was sent on 8th November, 2011.

I have heard learned counsel for the parties. In the present petition initially the Petitioner filed a petition seeking protection when the FIR had been registered against the Petitioner. However, at that stage since no approval for arrest had been granted by the competent authority, this court disposed of the petition with the direction to the Respondents to serve a seven days notice prior to the arrest of the Petitioner as and when the approval is granted. It may be noted that during investigations notices were sent to the Petitioner though he initially joined thereafter he has come up for quashing of the present notice.

This court in the present petition will not monitor the investigation

and take a decision whether the Petitioner is required for any further investigation or not. How the investigation has to be carried out is in the domain of the investigating agency. Merely because the notice was delivered at the home of the Petitioner and at that stage no investigation was carried out instead he was called to the police station, this Court cannot come to the conclusion that the notice was effectuated by malafide.

I find no merit in the present petition. Petition and application are dismissed.


MUKTA GUPTA, J.

NOVEMBER 14, 2011

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