

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

Date of Decision: March 11, 2015

+ CRL.M.C. 960/2015 & Crl. M.A.Nos.3594-95/2015

GYAN PRAKASH

..... Petitioner

Through: Mr. Sunil Kumar Jha &
Mr. Santosh Kumar, Advocates

Versus

STATE & ANR.

..... Respondents

Through: Mr. Karan Singh, Additional
Public Prosecutor for respondent
No.1-State with SI Vikram Singh

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

%

(ORAL)

Vide impugned order of 20th December, 2014, learned Revisional Court has remanded *kalandra* proceedings under Section 145 of the Cr.P.C. back to the learned Sub-Divisional Magistrate, as the case of respondent No.2 was not considered by the learned Sub-Divisional Magistrate.

At the hearing, learned counsel for petitioner had voluntarily submitted that respondent No.2-complainant had not come forward to put his case and so, remand of this case back to the learned Sub-Divisional Magistrate is totally unjustified. Attention of this Court was drawn to Sub-Divisional Magistrate's order of 17th November, 2014 (*Annexure P-10*) to point out that in the facts of this case, learned Sub-Divisional Magistrate was justified in directing that petitioner be put back into

possession of the property in question and the impugned order is unsustainable on the face of it and so, it deserves to be quashed and Sub-Divisional Magistrate's order ought to be restored.

Upon hearing and on perusal of the impugned order, Sub-Divisional Magistrate's order of 17th November, 2014 (*Annexure P-10*), Status Report of 20th December, 2014 filed before the learned Revisional Court and the material on record, I find that the dispute between the parties is of land-lord-tenant. Petitioner claims to be the landlord and respondent No.2 is the tenant in two rooms in the premises in question. According to petitioner, respondent No.2 has forcibly occupied the third room. During the course of hearing, it was brought to the notice of this Court that on the strength of Sub-Divisional Magistrate's order of 17th November, 2014 (*Annexure P-10*), eviction petition has been filed on 4th March, 2015 and suit for declaration filed by respondent No.2 already stands disposed of.

On a bare perusal of afore-referred Status Report of 20th December, 2014 reveals that respondent No.2 has gone away after locking the premises in question on 9th December, 2014. In such a situation, learned Revisional Court was fully justified in remanding the matter back to the learned Sub-Divisional Magistrate. Finding no palpable error in the impugned order, this petition and applications are dismissed while refraining to comment upon merits, let it may cause prejudice to either side.

(SUNIL GAUR)
JUDGE

MARCH 11, 2015

r