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

Date of decision: 12th February, 2015

+ CRL.M.C. 4654/2014 & CrI.M.A.15867/2014

SURINDER PANCHAL

..... Petitioner

Through: Mr. Praveen Kumar Jha, Advocate

versus

STATE OF DELHI & ORS

.....Respondents

Through: Mr. Karan Singh, Additional Public
Prosecutor for respondent-State
Mr. Abhay Kumar and Mr. Tenzing
Tsering, Advocates for respondent
No.2/NDPL

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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ORAL

Petitioner's complaint under Sections 323/341/379/426/447/448/451/499/506/120-B of IPC titled *Surender Panchal v. General Manager, NDPL & Ors.* has been dismissed by trial court vide order of 29th April, 2013 at pre-summoning stage by observing that petitioner in his complaint (Ex.CW-1/1), made to the local police had not disclosed the name of accused as Trilok whereas he has done so in the complaint in question.

Trial court has found that no *prima facie* case for summoning respondent as accused in petitioner's complaint is made out because the eyewitness-*Satish* has not been got examined.

Aforesaid order of trial court has been affirmed by the revisional court vide impugned order of 21st May 2014.

At the hearing of this petition, learned counsel for petitioner has submitted that on day of incident, petitioner did not know the name of assailant as *Trilok* and he had later on learnt it, when he had gone to the office of respondent-NDPL and so, he had made the complaint to local police. It was submitted that non-examination of eye-witness-*Satish* is not fatal as petitioner's evidence by itself is sufficient to establish a *prima facie* case and so, impugned orders deserve to be quashed.

The opposition to this petition by learned counsel for respondent No.2 is on the ground that even in this petition, it is not stated that petitioner had later on learnt the name of assailant as *Trilok* when he had gone to the office of respondent-NDPL after the day of the incident in question and he was not made a party before the revisional court and thus, there is no infirmity in the impugned order.

It was pointed out by learned counsel for respondent No.2 that it is the case of petitioner that the premises in question was sealed by MCD, but it is not disclosed as to when it was sealed particularly when, as per petitioner, the premises in question was sealed and so, there is no question of respondent No.2 de-sealing it nor it is shown that the seal of premises in question was broken. Lastly, learned counsel for respondent No.2 submitted that the photographs are also not on record to show any damage to the premises in question.

Upon hearing both the sides and on perusal of impugned orders and material on record, I find that at this stage no corroboration is

required to petitioner-complainant's evidence but from petitioner's evidence a *prima facie* case to summon respondent No.2-NDPL as an accused is not at all made out. The suspected assailant-*Trilok* was neither a party before the revisional court nor herein. A bare perusal of complaint made by petitioner to the Commissioner of Police and General Manager of NDPL on 23rd March, 2009 makes it abundantly clear that there is no palpable error in the impugned orders. Consequentially, finding no substance in this petition, it is dismissed.

The petition and application are accordingly dismissed.

(SUNIL GAUR)
Judge

FEBRUARY 12, 2015

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