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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1191/2013

MADAN LAL SURYAWANSHI

..... Petitioner

Through: Mr. Habibur Rehman Advocate

versus

STATE & ORS.

..... Respondent

Through: Mr. Panna Lal Sharma, Additional
Public Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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04.05.2016

By this petition filed under Section 482 of Cr. P.C. the petitioner is seeking setting aside of the impugned order dated 25.10.2012 passed by learned Additional Sessions Judge – 1 (Central), Delhi was in Criminal Revision No.31/2012, thereby finding no illegality or infirmity in the order dated 26.11.2011 passed by learned Metropolitan Magistrate while rejecting the application under Section 156(3) of Cr. P.C. by the petitioner.

The perusal of the record shows that the present petition came up for hearing on 20.03.2013 and it was adjourned to 09.04.2013. On 09.04.2013 the notices were directed to be issued to respondents for 09.07.2013 but the notices could not be issued to the respondents as the petitioner had not filed process fee. Thereafter, the proceedings

continued on one or the other date and the State has been impleaded in this matter.

Today, when the matter came up for hearing, it was found that respondent No. 2 to 15 have not been served. Even in between 19th October 2015, nobody appeared on behalf of the petitioner. On asking for taking steps to issue the process to the respondents, counsel for the petitioner submitted that the notices may not be issued to the respondents and other fact came before this Court that while adding respondent at S.No.16, it has been added as 'any other accused persons related to in this matter'. This is not permissible in law.

The prayer of the petitioner that the notices may not be issued to the respondents cannot be acceptable, reason being they have already arrayed as respondents Nos. 1 to 15 and upon allowing the application under Section 156(3), FIR is sought to be registered against them. Counsel for the petitioner submitted that the police is not cooperating the same. On asking, the service, counsel for the petitioner submitted that the respondent No. 1 to 15 may be deleted from the array of the parties. It has been further informed that the complaint filed on taking the cognizance on the complaint, the Court of Metropolitan Magistrate has already proceeded with the same and is at the stage of recording of the evidence of the complainant since 2012.

The prayer seeking deletion of the respondents from the array of the respondents itself shows that petitioner wanted to have the FIR against them without their service and if, for the sake of argument, the respondent No. 2 to 15 are deleted, then definitely no order can be

passed against them for the registration of the FIR, which mean the application itself as redundant. In these circumstances, this Court is of the considered opinion that the present petition is an abuse of the litigation. Therefore, this Court does not find any justification to exercise its discretion under Section 482 of Cr. P.C. in the present case.

Resultantly, the present petition is dismissed and disposed of as such.

P.S.TEJI, J

MAY 04, 2016
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