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

+ **W.P.(CRL) 482/2015**

ATUL NATH

..... Petitioner

Through: Mr.Sudhir Nandrajog, Senior
Advocate with Mr.Zeeshan Hashmi
and Mr.Salman Hashmi. Advocates.

versus

ACHAL NATH & ORS

..... Respondents

Through: Ms.Rebecca M.John, Senior
Advocate with Ms.Shobhana Takiar,
Advocate for R-1 and R-2.
Mr.Rajesh Mahajan, ASC for State/R-
3 with Insp. Ved PRakash and SI
Bharat Singh, Ps Hazrat Nizammudin.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

21.01.2016

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W.P.(CRL) 482/2015

1. The petitioner has invoked the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India with the following prayers:

(i) to set aside the order dated 27.01.2015 passed by learned ASJ in Criminal Revision No.146/2013.

(ii) to issue directions for restoration/continuation of investigation in case FIR No.278/2014, Ps Hazrat Nizamuddin.

2. Mr.Sudhir Nandrajog, learned Senior Advocate for the petitioner has submitted that in this case FIR No.278/2014, PS Hazrat Nizamuddin has

been registered in compliance of the order dated 29th May, 2014 passed by learned ASJ allowing the Criminal Revision No.146/2013 filed by the present petitioner.

3. However, on 24.09.2014 while disposing of W.P.(Crl.) No.1798/2014 tilted as *Achal Nath vs. State & Ors.*, this Court has set aside the order dated 29th May, 2014 with direction that Criminal Revision No.146/2013 be decided after giving an opportunity of being heard to the parties. The learned ASJ, after hearing both the parties, dismissed the Criminal Revision No.146/2013 on 27.01.2015.

4. Today during the course of hearing, Mr.Sudhir Nandrajog, learned Senior Advocate for the petitioner as well as Ms.Rebecca M.John, learned Senior Advocate for respondents No.1 and 2 conceded the factual position that after dismissal of the Criminal Revision No.146/2013, the petitioner is required to lead pre-summoning evidence before the learned Trial Court as directed by learned Metropolitan Magistrate in the order dated 8th October, 2013.

5. After the Complaint Case No.151/2003 was filed before the learned MM, while declining the prayer of the petitioner for issuance of directions under Section 156 (3) Cr.P.C., the following order was passed :-

“08.10.2013

Present : Ld. Counsel for the complainant.

The brief facts as alleged by the complainant are that the brother Mr.Achal Nath and Aman Nath of the complainant had forged the signatures of their mother Mrs.Sheela Nath on various documents taking advantage of her deteriorating health and old age and got her resign from the post of director of their ancestral company AMC. It is further alleged that Mr.Achal Nath appointed himself as a new director of the company and also transferred some shares in his own name by forging the

signatures of Mrs. Sheela Nath. Several complaints were made to the police but of no avail and hence, the present complaint was filed.

I have perused the complaint along with documents annexed therewith. The complainant had sent the alleged forged signatures of Mrs. Sheela Nath for examination to an independent handwriting and fingerprint expert who opened that the signatures of Mrs. Sheela Nath on certain documents as alleged were forged.

In the present case, the names and addresses of the accused persons are well within the knowledge of the complainant and the complainant has also possession of all the documents required to prove his case including an opinion of the expert. In these circumstances, application u/s 156(3) Cr.P.C. filed by the complainant stands rejected as there is no requirements of police intervention in this case.

Now, to come up for leading pre summoning evidence on 19.12.2013.

*Sd/-
MM-II/SE/ND/08.10.2013”*

6. As noted above aggrieved by the said order, the petitioner preferred Criminal Revision No.146/2013 which stands dismissed as on date.

7. Mr.Sudhir Nandrajog, learned Senior Advocate for the petitioner as well as Ms.Rebecca M.John, learned Senior Advocate for respondents No.1 and 2 have arrived at a consensus for issuance of following directions:-

(i) The petitioner shall lead pre-summoning evidence before the learned Trial Court in Complaint Case No.151/2003.

(ii) If the necessity arises, the petitioner/complainant may request learned Trial Court to invoke its power under Section 202 Cr.P.C. to get further

investigation done.

(iii) The parties to the Complaint Case No.151/2003 shall not take any advantage of the observations made by learned ASJ while disposing of the Criminal Revision No.146/2013.

(iv) The learned Trial Court shall proceed in the matter uninfluenced by any observation made by learned ASJ while disposing of the Criminal Revision No.146/2013 which was necessitated just for purpose of disposal of the Criminal Revision.

8. In view of above, the learned Senior Advocate for the petitioner submits that the petitioner seeks leave to withdraw the present petition.

9. Leave granted.

10. Accordingly, the writ petition is dismissed as withdrawn.

10. A copy of this order be sent to the learned Trial Court for information and compliance.

As prayed, copy of the order be given dasti to learned counsel for the parties.

Crl.M.A.Nos.3392, 3394, 3395, 8273 and 11258 of 2015

Dismissed as infructuous.

PRATIBHA RANI, J.

JANUARY 21, 2016
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