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

+ **CRL.M.C. 1744/2016**

MOHAN LAL

..... Petitioner

Represented by: Petitioner in person.

versus

**A PERSON TRACEABLE AND IDENTIFIED
BY THE DELHI POLICE & ANR**

..... Respondent

Represented by: Mr. Kewal Singh Ahuja, APP.

**CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER
16.08.2016**

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1. The petitioner filed an application before the learned Metropolitan Magistrate-7, Central, under Section 156(3) Cr.P.C. which was dismissed vide order dated 20th August, 2015 which the petitioner challenged in a revision petition before the learned ASJ which was dismissed by the impugned order dated 7th September, 2015; hence the present petition.

2. In the complaint, the petitioner stated that on 27th July, 2015 in the forenoon he had gone along with his daughter to the family Court room No.101 at first floor of District Court in connection with a false matrimonial case lodged by Sandeep Aggarwal, r/o 2nd Floor, 70 Tagore Park, Delhi to whom his daughter was married on the intervening night of 10th December, 2005 and 11th December, 2005 at Delhi. It is alleged that due to cruelty his

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daughter was residing with him and Sandeep Aggarwal had sought nullity of the marriage whereas his daughter Priyanka Aggarwal was pursuing a suit for restitution of conjugal rights before the same family Court. Criminal cases have also been filed against the petitioner, his wife and the daughter which were also pending. While the petitioner was coming back from Court room No.101 through the staircase opposite that room for attending his official duties at Goa Sadan, Delhi, somebody standing near the said staircase, voluntarily, without any provocation and with criminal intention to cause injury and fear and to criminally intimidate the complainant, apparently either to deter and/or obstruct him to attend to his official duties under the concerned Government and/or to prevent him from coming in future to the said District Court, Tis Hazari, Delhi hit him hard on his head and that naturally caused pain and injury on the body, mind and reputation of the petitioner resulting in that he could not even inform the matter immediately to the SHO Subzi Mandi or the in-charge Police post at Tis Hazari. As the complainant was coming downstairs with his face down looking at the said staircase, he could not see who the concerned persons or the associates were. He had also not obtained any medical legal certificate as he had to rush to his office for his official duties. On 29th July, 2015 when the complainant felt comfortable he gave a written complaint to authorities to ascertain the identity of the person with the help of CCTV footage of the time and place of the District Court, Tis Hazari. After he gave the complaint on 29th July, 2015 the Police personnel at Tis Hazari Court stated that in the absence of a medico legal certificate they could not do anything because no cognizable offence was made out and the offence if

any punishable under Section 323 IPC was non-cognizable. The complainant impressed upon the Police that since the complainant was a public servant, offences punishable under Sections 353, 355 read with Section 350, 504, 506, 503, 120-B IPC were also attracted. Thus the complainant sought registration of FIR.

3. The learned Metropolitan Magistrate called for an action taken report from the concerned SHO wherein it was replied that since no cognizable offence was made out no FIR was registered. Moreover no MLC was prepared and no PCR call was made. The action taken report also pointed out that there was no camera facility available at the place of incident, i.e. the stairs. The learned Trial Court also directed a CCTV footage of the incident be seized and report filed in this regard whether the place of incident pointed out by the complainant was within the range of any CCTV installed in the Court premises.

4. A report was filed stating that no CCTV was installed at the said point, also noting that the complainant's application under RTI to the Public Information Officer, Tis Hazari Court was replied that requisite CCTV footage was not available in the system being beyond storage limit. Thus the application under Section 156(3) Cr.P.C. was dismissed and the matter was listed for pre-summoning evidence. Statement of the petitioner during pre-summoning evidence has already been recorded.

5. The learned ASJ noting the facts also observed that since the complainant was accompanied by his daughter there was no reason why she did not even lodge a complaint or informed the Police at 100 number or see who the assailant was. Further there being no medical document, since no

cognizable offence is made out, there was no infirmity in the order passed by the learned MM and the revision petition was dismissed.

6. Before this Court the petitioner who appears in person pressed two facts one is that he was in possession of the photographs of the area in front of Court room No.101 and 102 where a CCTV camera was installed; secondly it is contended that since the petitioner was on official duty as thereafter he had to go to Goa Sadan to brief the Governor, the offences were cognizable in nature.

7. A perusal of the photographs placed on record does not show that the camera installed on the pillar in front of Court room No.101 and 102 was installed even on the date of alleged incident or the place on the stairs where the alleged incident took place was within its range, because the allegations of the petitioner was that when he was descending stairs somebody hit him and he could not see. Secondly all CCTV footages do not keep the coverage in their memory for long and as replied by the Public Information Officer, the storage media did not have the CCTV footage for the date of 27th July, 2015 by the time it was asked for. The complaint was made belatedly on 29th July, 2015 and no medical of the petitioner was got conducted. Even accepting the plea of the petitioner that he was in a hurry as he had to go to Goa Sadan to brief the Governor, the petitioner could have got himself medically examined after he was free from the work. Moreover even though the petitioner was a public servant, he visited Tis Hazari Court complex to pursue the litigation filed against his daughter before the family Court when he was not present in the Court in discharge of his official duty but in his personal capacity. Thus, prima facie, no cognizable offence having been

made out, the learned Metropolitan Magistrate committed no error in declining to pass directions under Section 156(3) Cr.P.C. and the learned ASJ in dismissing the revision petition. The complaint of the petitioner is already proceeding. The petitioner has been examined as a witness. Hence I find no ground to interfere with the impugned order.

8. Petition is dismissed.

MUKTA GUPTA, J.

AUGUST 16, 2016
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