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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 2053/2016

NORTH DELHI MUNICIPAL CORPORATION

..... Petitioner

Through: Mr. Mukesh Gupta, Standing
Counsel for NDMC with Mr. Sameer
Rai, Advocate

versus

STATE (NCT OF DELHI) & ANR

..... Respondent

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State with ASI Jai
Chand, Police Station Mukherji
Nagar, New Delhi

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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05.09.2016

By this petition filed under Section 482 of Cr. P.C. the petitioner is seeking quashing of the order dated 26.05.2015 passed by the Reliever Metropolitan Magistrate, (North) Delhi in FIR No. 1360/2014, Police Station Mukherjee Nagar, Delhi, vide which the learned Metropolitan Magistrate has declined to take cognizance/dropped the proceedings under Section 3 of Delhi Prevention of Defacement of Property Act, 2007 and for appropriate directions to respondent No. 3 to take action on the petitioner's complaints.

Learned counsel for the petitioner relied upon the decision of the Division Bench of this Court in W.P. (C) No.3367/2015 and submitted that the same is applicable to the present case as well. However, in the order dated 26.05.2015 passed by learned Metropolitan Magistrate, it has been held that placing of a poster on a wall does not amount to defacement by writing or marking under Section 3 of the Delhi Prevention of Defacement of Property Act, 2007 and referred the judgment in the case of *T.S. Marwah vs. State*, 2008 (4) JCC 2561. It was further observed that the said decision was rendered in the context of Section 3 of the West Bengal Prevention of Defacement of Property Act, 1976 but that decision equally applies to the present case. Accordingly, the cognizance was declined, proceedings were dropped and the police report was rejected.

It is the contention of learned counsel for the petitioner that the judgment of Division Bench is applicable to the facts of the present case.

I have heard the submissions made on behalf of the petitioner and have also gone through the communication duly approved by the ACP/Model Town on 03.06.2015.

In the light of the aforesaid this Court does not find any ground for exercising the powers under Section 482 of Cr. P.C. However, undisputedly, there are other remedies under the Cr. P.C. available to the petitioner, either to go before the Statutory Authority or to file a complaint before the Metropolitan Magistrate directly.

In view of the aforesaid observation, the present petition is dismissed.

P.S.TEJI, J

SEPTEMBER 05, 2016
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