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

+ **CRL.M.C. 2275/2016 & CrI.M.A. 9555/2016 (stay)**

RADHEYSHYAM

..... Petitioner

Represented by: **Mr. Ghanshyam, Mr. M.K.
Saroja, Advs.**

versus

STATE NCT OF DELHI & ORS

..... Respondent

Represented by: **Ms. Meenakshi Chauhan, APP
with ASI Mahabir Singh PS
Moti Nagar.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

24.10.2016

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1. Aggrieved by the order dated 1st February 2016 dismissing the application of the petitioner under Section 156(3) Cr.P.C. and proceeding on the complaint as per the complaint case procedure directing the petitioner to lead pre-summoning evidence, the petitioner preferred a revision petition which was dismissed vide the impugned order dated 16th March, 2016. Hence the present petition.

2. The allegation of the petitioner in the complaint were that he had booked an auto-rickshaw with the respondent which is the authorized dealer of Bajaj Auto Limited and paid a sum of ₹5,000/- by way of demand draft dated 5th November, 2012. It is alleged that respondent No.1 assured that as soon as the Govt. of NCT issues the permit for auto-rickshaw then their company will be informed, however this information was neither passed on

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to the petitioner nor he was informed that he should contact the respondent to purchase the auto-rickshaw which he had booked and paid ₹5,000/-. According to the petitioner, respondent No.1 sold the auto-rickshaw booked by the petitioner to another person on a higher price and hence registration of FIR was sought.

3. Relying upon the decision of this Court in M/s. Skipper Beverages Pvt. Ltd. Vs. State 2001 IV AD (Delhi) and Subhkaran Laharuka & Anr. Vs. State & Anr. ILR (2010) IV Delhi 495 the learned Metropolitan Magistrate held that all the facts were within the knowledge of the petitioner, thus registration of FIR was not required and hence it proceeded as a complaint case. For the same reason the learned Additional Sessions Judge also dismissed the revision petition.

4. As noted above, the allegations of the petitioners are two-fold i.e. entrustment of money for purchase of auto-vehicle and cheating as without informing him the vehicle was sold to another person at a higher rate. All these facts are within the knowledge of the petitioner and the amount of ₹5,000/- has been paid by draft which can be easily proved and in case any limited enquiry is required the same can be got done by the learned Trial Court under Section 200 Cr.P.C. Hence I find no reason to take a view contrary to the one taken by the learned Metropolitan Magistrate and the learned Additional Sessions Judge.

5. Petition and application are dismissed.

MUKTA GUPTA, J.

OCTOBER 24, 2016

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