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

+ W.P.(CRL) 2330/2016

SAMIR MEHTA

..... Petitioner

Through :Mr. Jitender Sethi and Mr. Akash  
Sharma, Advs.

versus

STATE NCT OF DELHI & ORS

..... Respondents

Through : Ms. Nandita Rao, ASC

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**08.08.2016**

By this writ petition under Article 226 read with Article 227 of the Constitution of India, petitioner has prayed for transferring the investigations of FIR No. 676/2015 under Sections 394/397/34 IPC registered at Police Station Prasad Nagar, to Crime Branch from the Local Police Station.

It is noted that petitioner had earlier filed W.P.(Crl.) No. 2717/2015 for the same relief but withdrew the same on 28<sup>th</sup> April, 2016. The order records as under:-

“1. By way of this writ petition filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C., petitioner is seeking transfer of investigation in case FIR No.676/2015, under

Sections 394/397/34 IPC, registered at PS Prasad Nagar.

2. Learned counsel for the petitioner seeks leave to withdraw the petition.

3. The writ petition stands dismissed as withdrawn.”

Petitioner has now again approached this Court for the same relief.

It is noted that charge-sheet has already been filed before the concerned Metropolitan Magistrate on 4<sup>th</sup> December, 2015, after completion of investigations.

As per the FIR four boys had entered the shop, beat the petitioner and looted ₹18,50,000/-. In the FIR, petitioner had named Pradeep and Santosh, who have been arrested. On the disclosure of Pradeep, accused Sunil and Ashok have also been arrested. ₹2,00,000/- have been recovered from Pradeep out of the looted amount. It is mentioned in the charge sheet that crime team was called and took photographs of the spot, inasmuch as CCTV footage was also taken in the pen drive.

Grievance of the petitioner is that remaining ₹16,50,000/- have not been recovered, inasmuch as, two more assailants are to be arrested, since Santosh and Ashok were part of conspiracy. This is not the substratum of the FIR. As per the FIR, four boys had entered in the shop. Petitioner has named Pradeep and Santosh in the FIR. Santosh has not been named as the

conspirator. Now it is sought to be projected that six people were involved, that is, four boys who had entered the shop including Pradeep while Santosh and Ashok were conspirators. This is in variance with the story propounded in the FIR. In my view non-recovery of entire robbed amount is not a ground for transferring the investigations that too after filing of the charge sheet. Learned counsel for the petitioner has placed reliance on Chandra Babu @ Moses vs. State through Inspector of Police & Ors., V (2015) SLT 531, but I find the same to be in the context of different facts.

Writ petition is dismissed.

**A.K. PATHAK, J.**

**AUGUST 08, 2016**

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