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

DECIDED ON : 18th MAY, 2017

+ **CRL.M.C. 1998/2017**

SWATANTRA SUNEJA Petitioner
Through : Mr.Kapil Lalwani, Advocate.

VERSUS

STATE NCT OF DELHI & ORS. Respondents
Through : Ms.Meenakshi Dahiya, APP.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

CRL.M.A.No.8243/2017 (Exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 1998/2017

1. Present petition under Section 482 Cr.P.C. has been preferred by the petitioner to challenge the legality and correctness of an order dated 20.08.2016 of learned District & Sessions Judge in Crl. Revision No. 56108/2016 (Old No.81/2016) by which order dated 08.09.2015 of learned Metropolitan Magistrate dismissing application under Section 156 (3) Cr.P.C. was upheld.

2. I have heard the learned counsel for the parties and have examined the file. The petitioner has filed a complaint case under Section 200 Cr.P.C. against her brothers – Anil Kumar and Sunil Arora. Application under Section 156 (3) Cr.P.C. was filed to get the matter investigated through the police and to direct registration of the FIR against the respondents. Learned Metropolitan Magistrate observed that the parties were closely related to each other. Several disputes between the parties were pending. Nothing was to be recovered by the police during investigation and the complainant was in a position to bring on record the evidence against the respondents. Learned Metropolitan Magistrate declined to order investigation under Section 156 (3) Cr.P.C. The petitioner was permitted to lead pre-summoning evidence under Section 200 Cr.P.C.

3. Revisional Court in the impugned order after discussing various judgments of this Court came to conclusion that order under Section 156(3) Cr.P.C. can't be passed mechanically in a routine and casual manner. Power under Section 156(3) Cr.P.C. is required to be exercised with care and caution.

4. I find no illegality in the impugned orders whereby detailed reasons were given while dismissing application under Section 156(3) Cr.P.C. The petitioner as a matter of right cannot insist for getting the complaint investigated under Section 156(3) Cr.P.C. The parties are related to each other. The dispute in the present case regarding the property in question is also pending before the Civil Court where the complainant is a defendant.

5. The Revisional Court has observed that presently there is no need for investigation by the police. If any need were to be noticed for such

investigation in any specific area of dispute, the learned Metropolitan Magistrate could always resort to power available under Section 202 Cr.P.C. at a proper stage.

6. The petition lacks in merits and is dismissed in limine.

(S.P.GARG)
JUDGE

MAY 18, 2017 / *tr*

