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

\+ CM(M) 860/2017 & CM 28553/2017

S I PANKAJ KUMAR THAKUR ..... Petitioner

Through: Mr. Partap Singh, Advocate along with petitioner in person.

versus

SURENDER SINGH & ANR ..... Respondents

Through: Mr. O.P. Mishra with Mr. J.P. Mishra and Krishna Dev Pandey, Advocates for R-1.
Mr. Rohit Sharma with Ms. Namrata Sharma, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

O R D E R

% 27.11.2017

1. The petitioner is employed in Delhi Police as Sub-Inspector. He was the investigating officer of first information report (FIR) No. 97/2013 instituted by the second respondent alleging offences punishable under Sections 354 and 506 of Indian Penal Code, 1860 (IPC) registered at Police Station Punjabi Bagh. The report on conclusion of investigation into the said FIR resulted in prosecution of the first respondent by the State. It appears that the said criminal case resulted in he (the first respondent) being eventually acquitted. He (the first respondent) brought a civil suit against the second respondent on 06.05.2016 seeking damages (compensation) for malicious prosecution impleading the said respondent as the sole defendant. By application subsequently moved under Order I Rule 10

of the Code of Civil Procedure, 1908 (CPC), he (first respondent) sought impleadment of five police officials as additional defendants. The Additional District Judge who is presiding over the civil suit, by her order dated 12.04.2017, allowed the said application partly, thereby impleading the petitioner as additional defendant, rejecting his contentions based, *inter alia*, on the protection available to him under Section 140 of Delhi Police Act, 1978. It is the said order which is under challenge by the petition at hand.

2. After some hearing, the counsel for the first respondent (plaintiff of the suit) fairly conceded that the statutory bar contained in Section 80 of CPC and the protection under Section 140 of the Delhi Police Act, 1978, inhibit the suit in so far as it is directed against the petitioner upon his impleadment. The counsel, on instructions, thus submitted that while the first respondent concedes that the impugned order may be set aside, the request is that the rights of the said party (plaintiff of the suit) to pursue appropriate remedies by following the procedure envisaged in Section 80 CPC and Section 140 of Delhi Police Act, 1978 may be reserved.

3. The impugned order is set aside. The rights of the first respondent to pursue remedies in accordance with law are, however, reserved.

4. The petition and the pending application stand disposed of in above terms.

R.K.GAUBA, J

NOVEMBER 27, 2017
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