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

+ CRL.L.P. 165/2018

RAVI GULATI

..... Petitioner

Through: Mr. P.K. Malik, Ms. Meena Jindal
and Mr. Akash Verma, Advocates.

versus

STATE & ORS

..... Respondents

Through: Mr. Tarang Srivastava, APP for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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15.10.2018

The petitioner seeks leave to appeal against the impugned order acquitting the policemen, who have allegedly assaulted him. It is not denied that the petitioner was running a lottery business and on some issue a quarrel started with the general public, whereupon the police was called; it reached the spot of the incident and apprehended the petitioner. He was taken to the local police station and after inquiry, he was released on the same day. It is the petitioner's case that he was beaten up by the police not inside the police station but at the site of the public altercation/quarrel.

The Court would note that there is no mention of any such physical assault by the petitioner in his complaint or in a statement, which could have been made immediately after he left the police station. His medical examination on the same day, does not record any statement, of the petitioner, to the effect that he was assaulted by the policemen.

The Trial Court has reasoned as under:-

“25. Accordingly, in view of the above discussion it is

proved on record that the complainant was running his business of dhabha and lottery illegally from the stall in question which was causing obstruction to the traffic and inconvenience to general public and a PCR call was received on 02.02.1994 regarding the quarrel between the complainant and general public which were attended by accused persons. It is not proved that the complainants were illegally detained, threatened, criminally intimidated or criminal force was applied upon them by accused persons. The offence of misappropriation of lottery tickets or the money recovered in the personal search of the complainants at the time of their arrest also not proved on record. In view of the same there is no requirement of considering the issue of Section 140 of Delhi Police Act.

26. Accordingly, the complainants failed to discharge their burden of proof. Accused persons are hereby acquitted from the present case”

The Court is of the view that if the petitioner was assaulted by the policeman at the spot, he could have moved a complaint on the same date or otherwise got himself examined in another medical examination to prove his injury. Furthermore, he could have brought another witness other than his brother, who too was apprehended simultaneously. No third party or public witness was brought forward by him in support of his allegation and no complaint was filed on the same day. It is only 5 days later that the complaint was made. The Trial Court found the petitioner's submissions an afterthought and only to implicate the policemen in a false case.

In view of the above, the Court does not find any merit in the petition. Accordingly, it is dismissed.

NAJMI WAZIRI, J

OCTOBER 15, 2018/_{RW}