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

+ **CRL.M.C. 1033/2016**

SHREE CHAND

..... Petitioner

Through: Mr. Shiv Charan Garg with Mr. Imran
Khan, Advocates.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR.... Respondents

Through: Mr. Mukesh Kumar, APP for State.
Ms. Radhika Arora, Advocate, Adv.
for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **10.09.2018**

1. The proceedings arise out of application which was treated as criminal complaint case by the Metropolitan Magistrate (registered as CC No.64/1/2007) styled as one making prayer under Section 156 (3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) impleading the second respondent as the first prospective accused, allegations having been made of commission of offence punishable under Sections 427/323/504/447/217/342/220 etc. of Indian Penal Code, 1860 read with Section 7/13(I)(d)/15 of the Prevention of Corruption Act, 1988, the prayer being for direction to the Station House Officer (SHO) of police station Malviya Nagar to register an FIR, investigate the matter and submit a report in accordance with law.

2. It appears the Magistrate did not issue a direction for registration of FIR and instead opted to take cognizance and held a pre-summoning inquiry on the basis of which order was passed on 13.04.2011 wherein some

observations about two private persons who were shown in the array of the complaint as second and third respondents, were recorded and summons were issued for offences punishable under Sections 343/323/355/34 IPC, the said order having been later revised, corrected or clarified, by order dated 25.08.2011, so as to include the second respondent as amongst those who stood summoned as accused.

3. The order was challenged by the second respondent before the court of sessions by criminal revision (no. 7/2012) which was allowed, by order dated 04.09.2012, which decision is assailed by the petition at hand under Section 482 Cr.P.C.

4. After some hearing, the counsel for the petitioner conceding that the application under Section 156(3) Cr.P.C. alleging, *inter alia*, offences under the Prevention of Corruption Act, 1988 should not have been presented in the court of Additional Chief Metropolitan Magistrate, it being subject matter of the jurisdiction of the Special Judge under the said special law, seeks permission to withdraw the petition at hand reserving his right to take out appropriate proceedings qua the second respondent before the court of competent jurisdiction.

5. The petition stands dismissed as withdrawn.

R.K.GAUBA, J

SEPTEMBER 10, 2018

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