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

DECIDED ON : APRIL 19, 2018

+ **W.P (Crl.) 1170/2018 & Crl.M.A.7115/2018**

MOHD. FAHIM

..... Petitioner

Through : Mr.M.K.Gahlaut, Advocate.

versus

STATE & ORS.

..... Respondents

Through : Mr.Jamal Akhtar, counsel for Mr.Rahul
Mehra, Standing counsel
ASI Pawesh Tyagi, PS Seelampur.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present writ petition under Article 226 of the Constitution of India has been preferred by the petitioner to direct respondents No.1 and 2 to lodge FIR against respondents No.3 to 6; to get recover the articles in possession of respondents No.3 to 6.

2. I have heard the learned counsel for the petitioner and have examined the file. On perusal of the contents of the petition, it reveals that primarily it is a civil dispute between the petitioner and respondents No.3 to 6. The petitioner claims that the respondents No. 5 and 6, owners of 4th floor of property bearing No.C-158, Shastri Park, Delhi-

110053 had inducted his wife as a tenant on a monthly rent of ₹100/- excluding electricity and water charges vide rent agreement dated 01.02.2016. The respondents No.5 and 6 have further admitted receipt of ₹4,00,000/- as 'security'. The said tenancy was extended subsequently. Since 01.02.2016, the petitioner's wife is in continuous possession of the rented accommodation. It is alleged that on 03.04.2018 when the petitioner and his wife were away to the residence of their daughter, the respondents No.3 to 6 in collusion and connivance with respondents No.1 and 2 removed the goods lying in the rented accommodation and committed trespass. The matter was reported to the police several times but no action was taken. Hence the present writ petition.

3. The petitioner admits that civil proceedings have been initiated for recovery of ₹4,00,000/- by the petitioner's wife which are pending before the court of Sh. Brijesh Garg, ADJ, Karkardooma, Delhi and the next date of hearing is 01.05.2018.

4. The petitioner has not placed on record any document, whatsoever, to show that his wife was inducted as tenant and the respondents No.3 to 6 were liable to pay ₹4,00,000/- . The matter is already pending disposal before the learned Additional Sessions Judge. Nothing has come on record to show that the petitioner has filed any application bringing to the notice of the said court of the events disclosed in the present petition.

5. The petitioner did not claim if any complaint case was lodged against the respondents No.3 to 6 to seek registration of the FIR. Proper remedy before the petitioner to seek relief is before the court of learned

Metropolitan Magistrate with the request to lodge FIR under Section 156 (3) Cr.P.C. The said remedy has not been availed and the petitioner has rushed to file the present writ petition without producing any credible document on record to substantiate his contentions.

6. The writ petition being unmerited is dismissed.

7. The petitioner, however, will be at liberty to approach the court of Metropolitan Magistrate to seek appropriate relief on merits.

**S.P.GARG
(JUDGE)**

APRIL 19, 2018/sa

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