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

+ **CRL.M.C. 3286/2018**

RAKESH NAYAR

..... Petitioner

Through: Mr. Vinod Malhotra, Mr. Nikhil
Malhotra and Mr. Rahul Sehdev,
Advs.

versus

M/S ABW SUNCITY & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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04.07.2018

Petitioner filed a complaint under Section 200 Cr.P.C. before the Metropolitan Magistrate. He also filed an application under Section 156(3) Cr.P.C. for registration of FIR against the respondents under Sections 406/420/467/468/471/120-B/34 IPC.

Trial court dismissed the application under Section 156(3) Cr.P.C. and decided to proceed with the complaint under Section 200 Cr.P.C.

Petitioner assailed the order before the learned Sessions Judge by way of a Revision petition under section 397 Cr.P.C. which has been dismissed by the order impugned in this petition under section 482 Cr.P.C.

Learned Revisional Court has noted that the disputes between the parties were in respect of an immovable property. Entire facts and

documents were within the knowledge and possession of the petitioner, therefore, no police investigation was required. It was also noted that petitioner had filed a civil suit for injunction on 8th December, 2014 which was pending. Another suit for declaration was also filed by the petitioner in respect of the same property in the High Court on 6th July, 2015 which was also pending. Status report filed by the police was also considered, wherein it was stated that petitioner and his wife had received ₹2.53 crores through cheques in their account and consequently, registry of flat in question was done in the office of Registrar, Gurgaon, in the presence of two witnesses and title of the flat was transferred in the name of Mrs. Aprajita Palaha vide conveyance deed dated 28th October, 2014. Revisional Court has placed reliance on Skipper Beverages Pvt. Ltd. Vs. State (2001) 92 DLT 217. Revisional Court has held that investigation was not required, inasmuch as, matter could be decided by the learned Magistrate in the complaint case.

It is trite law that Magistrate has to exercise discretion under Section 156(3) Cr.P.C. after proper application of mind and only in such cases where Magistrate is of the view that nature of allegations are such that complainant may not be in a position to collect and produce the evidence before the Court and interest of justice demands police investigation under Section

156(3) Cr.P.C. In the facts and circumstances of the present case, as detailed above, it is clear that disputes between the parties are with regard to an immovable property and the entire facts and documents are within the knowledge and possession of petitioner, which he can produce and prove by leading evidence in the complaint under Section 200 Cr.P.C. Accordingly, in my view, no intervention of this Court under Section 482 Cr.P.C. is required, inasmuch as, concurrent findings of the Court's below is in accordance with the law governing the field.

Petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

JULY 04, 2018

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