

\$~6

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

+ CRL.M.C. 2548/2016 & CRL.M.A. 10955/2016

SURJIT SINGH

..... Petitioner

Through: Mr. Gurmehar Sistani and Mr. Akash
Nagar, Advocates

versus

STATE & ORS.

..... Respondents

Through: Ms. Manjeet Arya, APP for State
Mr. Rajesh Yadav and Mr. Shyam
Singh, Advocates for R-2.
SI Sanjeev Kumar, P.S. Mayur Vihar

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

17.09.2018

Vide order dated 23rd April, 2016 learned Metropolitan Magistrate has framed charges under Section 447 IPC. Aggrieved by framing of charge petitioner has preferred this petition under Section 482 Cr.P.C.

It is noted that remedy of filing Revision Petition under Section 397 Cr.P.C. was available to the petitioner which has not been availed, therefore, I do not find any justification to entertain this petition.

Be that as it may, I do not find any perversity in the impugned order. Specific allegations have been made in the FIR that petitioner had trespassed the complainant/respondent no.2's property on 28.12.2008. Other material collected during the investigation supported this version. Thus, a prima facie, case was made out for filing of charge.

By placing reliance on photocopy of letter dated 03.06.2008 written by Delhi Development Authority (DDA) to the respondent no.2, it is contended that land had already been encroached prior to alleged date of

trespass, therefore, case of criminal trespass was made out against the petitioner. First of all, it is not understood as to how petitioner has laid hands on the photocopy of the letter dated 03.06.2008, since it was not addressed to the petitioner. Secondly, this at best, is defence of petitioner and can be taken up and proved by him, at an appropriate stage of trial. Thirdly, this letter was not part of the charge sheet and could not have been looked into by the trial court. Fourthly, letter does not specify that petitioner was in possession of any portion of the land of respondent no.2.

For the foregoing reasons, petition is dismissed.

A.K. PATHAK, J

SEPTEMBER 17, 2018/sr