

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

Date of Order: December 19, 2018

+ **CRL.M.C. 2079/2017**
+ **CRL.M.C. 2080/2017**
+ **CRL.M.C. 2081/2017**

SACHIN KUMAR
ASHOK RAJAN AGARWAL
RINKI GUPTA

.....Petitioners

Through: Mr. Kawal Nain and Mr. Rohit
Dadwal, Advocates

versus

THE STATE AND ORS

.....Respondents

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for respondent-
State
Mr. M.P. Singh, Additional Public
Prosecutor
Mr. Manish Sharma, Mr. Prnay Raj
Singh, Advocates for respondents
2 to 4

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

In the above captioned three petitions, the challenge is to the impugned order of 30th January, 2017 vide which petitioners' revision petitions have been dismissed by observing that the rejection of petitioners' prayer under Section 156 (3) of Cr.P.C is justified, as no

evidence is required to be collected by the police and the matter is pending before the trial court for recording of pre-summoning evidence.

At the outset, it was submitted by learned Additional Public Prosecutor for respondent-State as to how second revision petition in the garb of petitions under Section 482 Cr. P.C. lies.

Petitioners' counsel places reliance upon Supreme Court's decision in *Shakuntla Devi vs. Chamru Mahto and Another*, (2009) 3 SCC 310 to submit that there is total non application of mind by the Revisional Court and this is a fit case requiring intervention by this Court under Section 482 Cr. P.C. It is submitted that the zoning plan of property in question, handed over by respondent to petitioner is fake and fabricated and so, police investigation is required to find out as to who has forged the zoning plan.

With the consent of learned counsel for the parties, the above captioned three petitions have been heard together and are being disposed of by this common order.

After hearing learned counsel for the parties at some length, it transpires that the foundation for questioning the zonal plan is not there in petitioners' complaint.

Learned counsel for petitioners submits that this is subsequent development and appropriate steps would be taken to amend the complaint.

In view of the stand taken as aforesaid, the legality of the impugned order is not required to be gone into, as the complaint itself is being now amended.

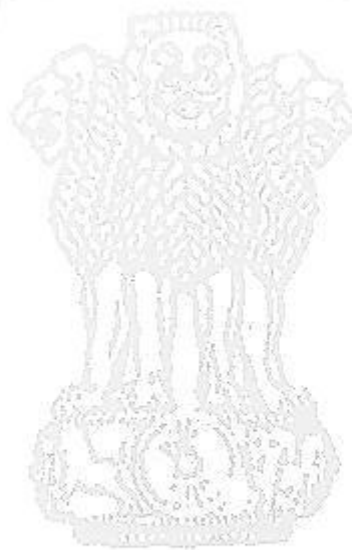
In the facts and circumstances of this case, it is deemed appropriate to dispose of these petitions with liberty to petitioners to amend the complaint. If it is so done, then petitioners would be well within their rights to file a fresh application under Section 156 (3) of the Cr. P.C. on the basis of amended complaint.

With aforesaid liberty, these three petitions are accordingly disposed of.

(SUNIL GAUR)
JUDGE

DECEMBER 19, 2018

v



सत्यमेव जयते