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

+ **W.P.(CRL) 1422/2017**

M/S SURYA DESIGN PVT LTD

..... Petitioner

Represented by: **Mr. Medanshu Tripathi and Mr.
Ashwan Mishra, Advocates.**

versus

COMMISSIONER DELHI POLICE AND ORS Respondent

Represented by: **Mr. Avi Singh, ASC with Mr.
Purnima Malik for R-1 with
ASI Rajender Kumar, PS
Defence Colony.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
01.05.2018

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By this petition, the petitioner seeks registration of FIR against respondent Nos. 6 to 8 for cheating and criminal conspiracy under the appropriate Sections of IPC.

In the complaint petitioner alleges that he booked a brand new Maserati to be customized as per the specification by the manufacturing company for a sum of ₹ 1,89,68,486/- as the road price inclusive of all taxes by paying of sum of ₹5 lakhs by cheque No. 183478 dated 17th May, 2012. At the time of booking complainant was also assured that the accused would even get a car loan sanctioned for ₹1,50,00,000/- and the difference alone was to be paid by the complainant. The petitioner was also assured that the customised car would be delivered by October, 2012.

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Case of the petitioner is that initial instalments of EMIs of the loan amount were deducting from his bank account, however, there was delay in the receipt of the car and thus he did not pay the later instalments.

Status report has been filed. As per the status report respondent Nos. 6 to 8 could get sanctioned a loan for sum of ₹1,00,00,000 from ICICI bank vide loan No. LADEL00026498763 in favour of the complainant company instead of loan of ₹1,50,00,000/-.

As noted though initial instalments were paid, however, later the petitioner refused to pay the instalments further though the complainant alleges that the car was not delivered to him, however, the respondent Nos. 6 to 8 alleged that the car was received though belatedly but the petitioner did not receive the car.

Time not being essence of the contract, thus if after the receipt of the car on repeated request petitioner did not pay the balance amount and receive the delivery of the car and thus the vehicle is lying at Mumbai port and respondent No. 6 has also to bear demurrages, this court finds that no ground is made out to direct registration of FIR, since the dispute between the parties is civil in nature.

Petition is dismissed.

MUKTA GUPTA, J.

MAY 01, 2018
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