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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4098/2016 & Crl.M.A. No. 17104/2016**

RAMESH RALHAN & ANR. Petitioners
Through: Mr. Parvinder Chauhan, Adv.

versus

STATE & ORS. Respondents
Through: Mr. Akshai Malik, APP for State.
Ms. Nandita Rao, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **23.07.2018**

The petition at hand is clearly a classic example of a person apprehending criminal action making an attempt to pre-empt the same. The police had registered FIR No.1050/2014, under Section 33 of Delhi Excise Act with police station Alipur. It appears the report under Section 173 of Code of Criminal Procedure, 1973 (Cr.P.C.) was filed which came up before the Chief Metropolitan Magistrate on 21.01.2016. The Chief Metropolitan Magistrate was not satisfied with the steps taken in the investigation and directed further investigation to be carried out, calling for explanation from the investigating officer, who had submitted the report, as to why no action had been proposed against the person from whom the illicit liquor had been recovered as also the owner of the premises where the liquor was found being served. The report was also called for from

the Deputy Commissioner of Police, Outer District. No such report having been submitted, the Chief Metropolitan Magistrate by subsequent order dated 20.08.2016 reiterated the earlier directions and also called for explanation, *inter alia*, from the Deputy Commissioner of Police. The present petition was filed invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C. to question the legality of the said orders.

The learned APP pointed out that pursuant to the directions of the impugned order further investigation has already been carried out and second supplementary charge-sheet has been submitted where names of the petitioners have been reflected in column no.12.

The learned counsel for the petitioners at this stage submitted that he may be permitted to withdraw the present petition though his request is that it may be clarified that the Chief Metropolitan Magistrate, when he applies his mind to the supplementary charge-sheet, will not feel bound by the observations made in the impugned orders qua the complicity or otherwise of the petitioners and further that he may be given liberty to approach the magistrate again for release/return of the original documents of the ownership of the premises in question.

It is trite that while applying his mind to the supplementary charge-sheet, the Chief Metropolitan Magistrate will not be bound by any observations in the earlier orders in terms of which the further investigation was carried out. The petitioners have the liberty to approach the Chief Metropolitan Magistrate for return of the

documents which request, of course, shall be considered in the light of facts and circumstances of the case and the need, if any, for their retention as evidence for the pending proceedings arising out of the case.

The petition and the application filed therewith stand dismissed as withdrawn.

R.K.GAUBA, J

JULY 23, 2018

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