

\$~8

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

+ CRL.M.C. 3452/2015 & CRL.M.A. Nos. 3609/2018 (early hearing),
12329/2015 (stay)

SHARAD AGARWALLA Petitioner

Through: Petitioner in person.

versus

STATE & ANR Respondents

Through: Mr. Mukesh Kumar, APP for State
with SI Sandeep Singh, P.S. IP Estate.
Mr. Ravin Rao, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **03.08.2018**

On the application under Section 156 (3) read with Section 200 of the Code of Criminal Procedure, 1973 (CC No. 292/5/14) of the petitioner, the Metropolitan Magistrate, by his order dated 24.09.2014, directed the Station House Officer, P.S. I.P. Estate to register an FIR 'under relevant provisions of law against the wrong doers' and to file a report. The said order was challenged by one of the persons (i.e. second respondent herein) whose names were mentioned in the array of prospective accused in the court of Sessions by revision petition (CR. No. 14/14).

The revision petition was allowed by the court of Sessions by order dated 08.12.2014, *inter alia*, with reference to the fact reported by the police that the petitioner had earlier lodged a first information report no. 212/2009 on 24.12.2009 alleging offences punishable under Section 381 of the Indian Penal Code, 1860 (IPC) and Sections 43B/66 of the Information

Technology Act, 2000 with P.S. DLF, Phase-I, Gurgaon, Haryana which matter had been concluded upon a closure report being submitted, a fact, which was not disclosed in the application on which the impugned order of Magistrate was passed.

Aggrieved by the order dated 08.12.2014 of the revisional court whereby the directions of the Magistrate for registration of an FIR was set aside, the present petition was filed invoking the jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 Cr.P.C.

The petitioner has appeared in person and insisted on submitting arguments without the aid or assistance of any advocate. He has been heard at length and the file has been perused.

Aside from the fact that the fate or status of the FIR, which was lodged with police in Gurgaon, Haryana was not shared with the court of Magistrate, there is one more reason, a fundamental one, on which the petitioner cannot be allowed to proceed further on his application under Section 156 (3) Cr. P.C. Though in the said application he would allege offences having been committed, they being punishable under Sections 34, 120B, 378, 381, 390, 403, 406, 420, 465, 467, 468, 469, 471, 481, 503, 504, 506 IPC and Sections 43/66 of the Information Technology Act, 2000, in the averments in the application, there are no specifics. The prime grouse of the petitioner is theft of a software developed by him by the persons mentioned in the application, they at some stage or other having assisted him including in the capacity of employees and they having allegedly illegally passed on the said software for lucrative gains to others committing, *inter alia*, breach of trust. But, there is no description to identify or specify the

software in which respect the petitioner claims to be the owner or proprietor. The allegations about the illicit sale or re-sale, breach of trust are also kept vague in the entire application.

In these circumstances, there was no occasion for the Magistrate to have exercised his jurisdiction under Section 156 (3) Cr. P.C.

The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

AUGUST 03, 2018/uj