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

+ CRL.M.C. 3925/2015

MADAN LAL SURYAWANSHI Petitioner

Through: Mr. Habibur Rahman, Adv.

versus

STATE & ORS

..... Respondents

Through: Mr. Mukesh Kumar, APP for the
State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **28.09.2018**

The complaint from which the present proceedings arise was submitted by the petitioner in the court of Additional Chief Metropolitan Magistrate (ACMM) on 25.11.2008. He alleged certain offences having been committed in the context of elections to the legislative assembly of Delhi, they being punishable under Sections 171-A to 177-F/193/ 200/ 201/ 307/323/341/342/419/420/500/505/506-II/120-B/34 of Indian Penal Code, 1860 (IPC), besides reference being made to “*Section of West Bengal Act*”.

On 02.12.2008, the Metropolitan Magistrate to whom the matter had been assigned, recorded “*it was not possible due to paucity of time*” on that date “*to record pre-summoning evidence*”, it being clear that the Metropolitan Magistrate was inclined to take cognizance and proceed with the preliminary inquiry under Section 200/202 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

Be that as it may, along with the complaint, the petitioner had also presented application under Section 156(3) Cr.P.C. The matter was

adjourned in view of the said application for consideration to the next date. The subsequent proceedings would show that police filed report. At the instance of the petitioner himself, the said report was treated as report under Section 173 Cr.P.C. The matter thereafter remained pending, it having been derailed because the petitioner wanted time to file "*protest petition*". He instead moved application for security cover to be given to him as he had received certain threats. The Metropolitan Magistrate indulged him by a series of orders giving certain directions to the superior officers in the police department in that regard. The matter remained pending at that stage till 10.06.2010, the focus of the Metropolitan Magistrate being on the question of security rather than on the criminal complaint. Eventually, upon intervention by the Chief Metropolitan Magistrate, by her order dated 10.06.2010, the directions on the issue of security for the complainant were vacated and the case came up for consideration on its merits. By this time, the complainant had been taken in custody in case FIR No.40/2009 involving offences punishable under Section 419/420/467/468 IPC of Police Station Karol Bagh. His presence was secured through production warrant.

The case was adjourned from time to time, notices being issued to the investigating officer, the petitioner having, in the meantime, filed protest petition against the report under Section 173 Cr.P.C.

By order dated 21.01.2014, the Metropolitan Magistrate directed the SHO of the concerned Police Station to register FIR. This order was challenged before the court of Sessions invoking its revisional jurisdiction by petition – Criminal Revision Petition No.28/2014 (presented by the State). The revision petition was allowed by order dated 28.07.2014, setting

aside the order for registration of the FIR on the ground such order could not have been issued once the protest petition had been called for on which inquiry was underway.

The record of the trial court which has been called for shows that after the revisional court had vacated the directions for investigation, the petitioner has not taken a single step, till date, to prosecute the criminal complaint, which he had presented in the year 2008. The matter has already become more than ten years old. From the cryptic averments made in the complaint of the petitioner and from the way he has conducted the proceedings, it is clear that he is not interested in diligent prosecution of the matter. The cryptic allegations in the complaint do not seem even to have been properly construed by the Metropolitan Magistrate till date to find out as to whether any offences are made out for such action to be taken as is sought. In the given facts and circumstances, this Court finds no reason to interfere with revisional courts decision that there is no case made out for directions for police investigation under Section 156 (3) Cr.P.C. This seems to be a complaint with frivolous intent.

The petition is dismissed. The Metropolitan Magistrate is directed to proceed with the matter on day-to-day basis in accordance with law so as to take it to the logical conclusion at the earliest. No further indulgence to the petitioner shall be shown in the matter of adjournments.

Trial court record shall be returned forthwith.

The petition stands disposed of with these observations.

R.K.GAUBA, J.

SEPTEMBER 28, 2018/vk

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