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

+ W.P.(CRL) 3136/2017

HARISH KUMAR

..... Petitioner

Represented by: Mr. Pramod K Tiwary and Mr.
Amrendra Kumar, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Represented by: Ms. Suman Saharan and Mr.
Abhijit Shankar, Advocates for
Mr. R.S. Kundu, Additional
Standing Counsel for State with
SI Randeep and ASI Gordhan
Singh, PS Prashant Vihar.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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14.08.2018

1. By this petition, petitioner seeks quashing of FIR No. 664/2016 under Section 325 IPC registered at PS Prashant Vihar, Delhi on the complaint of respondent No.2.

2. Learned counsel for the petitioner contends that the present petition has been filed after the petition filed by respondent No.2/complainant being W.P. (Crl.) No. 2251/2017 seeking quashing of FIR No.826/2016 dated 21st November, 2016 registered at PS Prashant Vihar for offence punishable under Sections 323/380 IPC, since this Court in its ex-parte order noted that the nature of allegations were *de minimis non curat lex*. It is further stated

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that the respondent No.2 got registered the above noted FIR to cover his own illegal activity of first partitioning the chamber illegally, then removing the table and chair of the petitioner from the chamber and thereafter beating him with kicks and fist blows and attempting to kill him with the glass of window injuring him on the right hand. Learned counsel for the petitioner further contends that it is unbelievable that a person with serious injuries would be able to write the complaint so smoothly.

3. FIR No. 664/2016 was registered by the police on 10th August, 2016 on the complaint of respondent No.2 dated 12th July, 2016. Respondent No.2/complainant in the complaint alleged that he along with Harish Kumar, the petitioner herein were co-allottees of chamber No.318, Chamber Block, District Courts, Rohini. Initially the relationship between the petitioner and the complainant were cordial but later it grew bitter, thus, they decided to partition the chamber. Complainant got started the work of partition by putting aluminium partition but during middle of the work petitioner created nuisance. Hence, the complainant filed a complaint before the Chamber Allotment Committee which was pending disposal. The Chamber Allotment Committee had directed the petitioner and complainant to maintain status quo. He further alleges in his complaint dated 12th July, 2016 that on that day at 2.30 PM when he went to his chamber the petitioner stopped him from entering the chamber and stated that he would not allow the complainant to enter the chamber. When the complainant asserted that he was a co-allottee and had a right to use the chamber until the decision is taken on the complaint by the Chamber Allotment Committee and tried to enter again the chamber, the petitioner got angry and started abusing him

rudely. When complainant asked him not to abuse, the petitioner assaulted him with the fists. When complainant tried to stop the fist blows, petitioner's fist blows hit on the face and hands of the complainant. Hearing the commotion some more advocates reached there and saved him. However, petitioner continued abusing him loudly and stated that he would not allow the complainant to enter the chamber and would break partition. It is also stated that the petitioner hit his fist on the glass of the partition wall due to which the glass broke down and the petitioner also received injury. A 100 number call was made by the complainant through his mobile No.9136638387 but on the advice of the other advocates that it was a matter which should be resolved between the advocates, he disconnected the call. Since there was pain and swelling in the right hand, he went to the Rohini Court dispensary where he was prescribed painkiller and in case the pain persisted he was asked to get the x-ray done. Since in the evening the pain persisted he went to the nearby pathlab and got his x-ray done which opined a fracture in his 5th meta carpal.

4. Complainant thus immediately lodged a complaint on 12th July, 2016 itself and on the same night, that is, intervening night of 12th /13th July he was taken to hospital, that is, Dr. Baba Sahab Ambedkar Hospital, Rohini and his MLC was prepared at 00.34 hours on 13th July, 2016. In the said MLC the complainant clearly stated about the physical assault around 2.30-3.00 PM and complained of pain in the right hand. Abrasion was found on the right side of the neck and swelling over the dorsal. At the same time right hand x-ray of the respondent No.2 was conducted and finally as per the

MLC of complainant, the injury was opined to be grievous in nature.

5. Considering the nature of allegations and the opinion on the MLC opining the injury to complainant being grievous in nature besides criminal restraint, this Court finds no ground to quash the FIR in question, that is, FIR No.664/2016 under Section 325 IPC registered at PS Prashant Vihar on the grounds urged by learned counsel for the petitioner, stating that the FIR is false, concocted and counter blast, pursuant to the illegal act of the complainant or that the same has been got registered to put undue pressure on the petitioner.

6. Petition is dismissed.

MUKTA GUPTA, J.

AUGUST 14, 2018
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