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

+ **W.P.(CRL) 3448/2017**

SMT SHALINI JAIN

..... Petitioner

Represented by: **Mr. Anuj Jain, Advocate.**

versus

STATE OF NCT OF DELHI &ORS

..... Respondents

Represented by: **Ms. Richa Kapoor, Additional
Standing Counsel for State with
SI Birender Singh, PS Dwarka
North.**

**Ms. Sana Naseem, Advocate
for Mr. Naushad Ahmad Khan,
Additional Standing Counsel
(Civil).**

**Mr. Jitender Chaudhary,
Advocate for respondent No.5.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

27.08.2018

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1. By this petition, the petitioner inter alia seeks registration of FIR against respondent No.5, writ of mandamus to respondent Nos. 2 to 6 to restore the petitioner in her Flat No.27, Type-II, North Campus, Netaji Subhash Institute of Technology, Sector-3, Dwarka, New Delhi besides compensation etc.

2. Briefly the facts are that the petitioner was married to respondent No.5 however, admittedly since 2010 the petitioner and respondent No.5 were living separately. The petitioner continued to live in the flat/

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accommodation provided to respondent No.5 by the employer. In September, 2016, the petitioner left the job and took another job at Aurangabad. The son of the petitioner, who was living with her had also accompanied her to Aurangabad. The case of the petitioner is that on 30th October, 2017 she came to Delhi to attend the Court proceedings in the divorce petition filed by her husband and on the same day when she visited the flat she found that her cash and jewellery items have been misappropriated along with the household articles.

3. A status report has been filed. As per the status report admittedly the petitioner and respondent No.5 were living separately and since 2010 the petitioner was living in the house allotted to respondent No.5 by the employer however, in September, 2016 she joined a new job in Aurangabad, Maharashtra where her parents are residing. That on 23rd July, 2016 the petitioner obtained an estimation from Aggarwal Packers for sending her goods from Delhi to Aurangabad however, learned Additional Standing Counsel for State submits that the goods were not sent by the complainant though the said agency.

4. On 25th July, 2017 the husband surrendered the flat to Officer In-charge, Estate/EE, NSIT, Sector-3, Dwarka, North stating that the flat was lying open and in an unattended condition, intimation in this regard was given to the SHO concerned as well. It is only thereafter that the petitioner has acted and filed the complaint.

5. Firstly the flat/apartment having been allotted by the employer to the respondent No.5, the petitioner could not be even a permissive user of the same and further from the facts as noted and admitted by the parties in 2016

the petitioner had shifted to Aurangabad where her parents are residing having taken an employment there along with the son. It is unfathomable that the goods of the petitioner would be lying in the said flat for nearly one year.

6. Be that as it may, the complainant has an alternative remedy of filing a complaint case before the Metropolitan Magistrate and on the fact as noted above this Court finds no ground to direct registration of FIR or pass any order on compensation.

7. Petition is dismissed with liberty to take remedies as available.

MUKTA GUPTA, J.

AUGUST 27, 2018

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