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

+ **W.P.(CRL) 2616/2019**

RAKESH KUMAR MALHOTRA Petitioner

Through Mr Santosh Kumar Suman, Advocate.

versus

THE STATE & ORS Respondents

Through Mr Piyush Singhal, Advocate for
Mr Ashish Aggarwal, ASC for State.
SI Ankit Kumar, P.s. Madhu Vihar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.09.2019

CRL.M.A. 35966/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(CRL) 2616/2019 & CRL.M.A. 35967/2019

3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent nos. 1 and 2 to lodge an FIR against respondent no.3 (The Director/Proprietor/Owner of M/s Karina Fincap Limited), respondent no. 4 (authorized representative of M/s Karina Fincap Limited) and their associates.
4. The petitioner alleges that he had gone to the Madhu Vihar Market to get the xerox copies of some relevant documents. He had also carried a bag

with cheque books. He states that while he was getting the documents photocopied, his bag containing the cheque books was “*misplaced/missing/stolen*”. The petitioner states that he went to the office of respondent no.2 and narrated the incident to the police officials. An NCR report was lodged.

5. Subsequently, the cheques which were stated to have been “*misplaced/missing/stolen*” were presented by respondent no.3. The said cheques were dishonoured and respondent no. 3 has initiated proceedings under Section 138 of the Negotiable Instruments Act, 1881 (N.I. Act).

6. It is admitted that respondent no.3 is a finance company and it is also admitted that the petitioner had availed of a loan from respondent no.3 company. He, however, states that he had not issued any cheques and the employees of respondent no.3 had stolen the same. The petitioner has filed the present petition as he now desires that an FIR be registered regarding the theft, considering that respondent no.3 has presented the cheques and has, thereafter also initiated proceedings under Section 138 of the N.I. Act.

7. It is apparent from the above that the present petitioner is less than honest. The present petition does not disclose that the petitioner had taken any loan from respondent no.3, which is a fact that is now admitted during the course of the arguments. It is also clear that the present petition is an afterthought and a device to avoid the proceedings initiated under Section 138 of the N.I. Act.

8. This Court is refraining from making any further observations in this matter since respondent no.3 has already initiated proceedings and any further observations are likely to prejudice the petitioner in those

proceedings. However, it is clear that the present petition is an abuse of the process of Court and cannot be countenanced. In view of the above, the present petition is dismissed with cost quantified at ₹50,000/-. The cost shall be deposited with the Delhi High Court Legal Services Committee within a period of two weeks from today.

9. The petition is disposed of. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 17, 2019

pkv