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

+ **W.P.(CRL) 683/2020 & CrI.M.A. 5240-41/2020**

NALINI BHANDARI

..... Petitioner

Through: Mr. Narita Yadav, Mr. Sanyam
Khetrapal & Mr. Nitesh Goyal,
Advocates

Versus

STATE & ANR.

..... Respondent

Through: Ms. Shivani Sharma, Advocate for
Ms. Richa Kapoor, Additional
Standing Counsel with SI Vikas
Yadav

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

11.03.2020

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Petitioner is aggrieved by the order of 13th February, 2020 passed by the learned Special Executive Magistrate vide which proceedings under Sections 107/150 Cr.P.C. have been initiated against the petitioner on a complaint dated 6th February, 2020 filed by the second respondent.

Learned counsel for the petitioner submits that the dispute between petitioner and second respondent is essentially a business dispute. It is submitted that respondent No.2 is 50% business partner of petitioner and with *mala fide* intention of cheating the petitioner and taking over the entire business, he is not permitting the petitioner to look after the

accounts and business of restaurant in question, regarding which petitioner had already made two complaints with the local police much prior to the complaint filed by second respondent and that the learned trial court while passing the impugned order, has not taken into consideration the facts and circumstances in totality and therefore, issuance of notice under Section 111 of the Code of Criminal Procedure against the petitioner is *per se* bad in law and, therefore, the impugned order deserves to be set aside.

Notice.

Ms. Shivani Sharma, Advocate, accepts notice on behalf of Ms. Richa Sharma, Standing Counsel for respondent/State and submits that an alternate and efficacious remedy to challenge the order of learned Special Executive Magistrate before the court of Sessions is available to the petitioner.

I have heard the rival contentions raised on behalf of both the sides.

At this stage, learned counsel for petitioner does not press this petition. He, however, prays that petitioner be granted time to avail the appropriate remedy available to her and since petitioner is an old lady of 61 years of age and has recently undergone hip surgery, she be exempted from personal appearance before the learned trial court and further states that petitioner be granted liberty to approach this Court if she fails in her endeavour to get the requisite relief as prayed for.

In view of the aforesaid, this petition is disposed of as not pressed. The petitioner may avail the appropriate remedy available to her within fifteen days with liberty as prayed for. Till then, petitioner's personal appearance before the learned trial court be not insisted upon.

The petition along with pending applications stand disposed of accordingly.

Dasti.

BRIJESH SETHI, J

MARCH 11, 2020

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