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

+ **CRL.M.C. 481/2022**

GIRISH CHAUDHARY

.....Petitioner

Through: Mr. Rajeev Kumar, Mr. Sandeep
Vashisht, Advs.

versus

STATE & ORS.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State.
SI Neha, PS Vijay Vihar

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

28.08.2024

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1. Petitioner has approached this Court challenging the Order dated 21.09.2021, passed by the learned ASJ, Rohini Courts, in Criminal Revision Petition No.70/2020, filed by the Petitioner herein against the Order dated 13.07.2020, passed by the learned Metropolitan Magistrate, Rohini Courts, dismissing the application filed by the Petitioner herein under Section 156(3) Cr.P.C.

2. Relevant portion of the Order dated 13.07.2020, passed by the learned Metropolitan Magistrate, dismissing the application filed by the Petitioner herein under Section 156(3) Cr.P.C reads as under:

“In view of authoritative pronouncement of Hon'ble Supreme Court in Lalita Kurnari v. Govt. of UP (2014) 2 sec 1, there is no doubt about the settled legal position that in cases ,where the complaint discloses



commission of cognizable offence, police is duty bound to register an FIR and investigate the matter as per law. However, in view of the aforesaid authoritative pronouncements of Hon'ble Delhi High Court as well as Hon'ble Supreme Court in Ms. Skipper beverages P. Ltd. case, it is one thing to say that in case a complaint made to police discloses commission of a cognizable offence, the police is duty bound to register an FIR and investigate the matter and it is another thing to say that in every such case where the police has failed to register an FIR on the complaint of complainant despite disclosing cognizable offence, Court must direct registration of FIR by the police. The power of court under Section 156(3) Cr.P.C. is discretionary and such discretion should be exercised in consonance with the guidelines laid down by Hon'ble Delhi High Court as well as Hon'ble Supreme Court in the Judgments referred to herein above.

After going through the complaint and hearing the arguments, it is seen that the entire evidence is either in possession of the complainants or the complainants can get the same summoned through the process of this Court and nothing new is to be collected for which the assistance of the police agency is required. Besides, if after examination of the complainants, any police assistance is required, the Court is within its power to direct investigation u/s 202 Cr.P.C.

Therefore, in view of aforesaid legal principles and considering the facts and circumstances of the case, there is no ground for this court to exercise jurisdiction u/s 156(3) Cr. P.C. Hence, the application u/sec. 156(3) Cr.P.C. moved by the complainant is hereby dismissed”

3. The said Order was challenged by the Petitioner by filing a Revision Petition before the learned Additional Sessions Judge. The learned



Additional Sessions Judge, after going through the entire records, has observed as under:

“5. I have perused the order passed by Id. MM, the complete trial court record file and also seen the video relied upon by the Id. Defence counsel. From the perusal of the video it is evident that some quarrel had taken place between the complainant and two ladies. As per ATR filed on behalf of the IO, the said ladies have lodged DD NO.36B against the Complainant that he threatened the daughter in law of one Ms. Raj. In the video it is seen that the ladies are scuffling with the complainant. As per the MLC filed by the complainant, the nature of injury is not opined. On careful perusal of the entire MLC, the complainant has suffered small cut over vertex region. From the contents of the entire complaint and the MLC, no cognizable offence seems to have been made out against the alleged persons.

6. There is no infirmity in the Order dated 13.07.2020 and the same is upheld, accordingly. The Petition being devoid of any merits is dismissed.”

4. A perusal of the material on record shows that the MLC indicates the injuries sustained by the Petitioner. At this juncture, this Court is of the opinion that if an injury has been suffered by the Petitioner then action ought to have been taken by the Police under the Cr.P.C.

5. This Court has also perused the ATR. The ATR filed on behalf of the IO shows that DD No.36B was lodged against the Petitioner herein for threatening the daughter in law of one Ms. Raj. In another ATR it is stated that the parties have entered into settlement. There are two conflicting ATRs and they do not find mention in the Orders of the Courts below.



6. Resultantly, the impugned Order is set aside and the matter is remanded back to the learned Metropolitan Magistrate to consider the reports afresh and proceed further in accordance with law. The learned Metropolitan Magistrate is directed to inform the Complainant about the next date of hearing.

7. With these observations, the Petition is disposed of, along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

AUGUST 28, 2024

Rahul