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

+ CRL.M.C. 2236/2023

RAVINDER SONI

..... Petitioner

Through: Mr.R.K. Bhardwaj, Advocate with
petitioner in person

versus

SUSHIL KUMAR & ORS.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Amit
Mr.Sandeep Sharma, Mr.Hunny and Mr.Ankit P.,
Advocates for respondent No.3

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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10.05.2024

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 08.12.2022 passed by learned ASJ/Special Judge, NDPS (Central), Tis Hazari Courts, Delhi in Criminal Revision No.223/2020, whereby the order dated 11.07.2018 passed by the learned MM came to be upheld. Vide the said order, learned MM-05 (Central), Delhi refused to summon respondent No.3/SHO.

2. Briefly, the facts, as discernible from the record, are that the petitioner had filed an application under Section 156(3) alongwith Section 200 Cr.P.C., in which it was stated that respondent No.1 is a builder by profession. It was further alleged that on 22.05.2014, the petitioner had made a written complaint against him for illegal and unauthorized



construction. It is stated that one *Praveen* made a telephonic call to the petitioner on 31.05.2014, asking him to reach Police Station Nabi Karim. When the petitioner reached the said Police Station at about 2:00 P.M., he saw respondent No.1 in the Police Station and at his behest, respondent No.2 threatened and beat him up mercilessly. It was alleged that the petitioner suffered injuries and his ear was also damaged. In support of his complaint, the petitioner also placed on record his medical examination carried out in Lady Hardinge Medical College, wherein his MLC was also prepared.

Though the learned MM dismissed the application filed under Section 156(3) Cr.P.C., however, proceeded with the complaint filed under Section 200. In the said proceedings, the petitioner/complainant examined himself as well as *Sanjay Yadav* and *Mohd. Khalid Salamani* as CW2 and CW3 respectively.

Vide order dated 11.07.2018, learned MM directed issuance of summons against respondent Nos.1 and 2, however, no summons was issued to respondent No.3 as no specific allegation was found to have been made out against him. It was this latter aspect which was assailed before the learned Sessions Judge and the said challenge came to be dismissed vide the impugned order.

3. Learned counsel for the petitioner submits that in the complaint, the petitioner has alleged that respondent No.3 being the SHO of the Police Station made the petitioner stand in the Police Station till 10.00 P.M. and even a *kalandra* under Section 107/151 Cr.P.C. also came to be registered against him. However, in the said *kalandra*, the Executive Magistrate did not take cognizance.

4. Learned APP for State submits that the petitioner is a BC of the area.



5. Learned counsel for respondent No.3 contends that in petitioner's own complaint filed under Section 200, the petitioner has alleged that it was respondent No.2 who had made him stand in the Police Station till 10.00 P.M. He therefore, submits that there is no other allegation against respondent No.3.

6. I have heard learned counsels for the parties as well as learned APP for the State and have also gone through the material placed on record.

7. A perusal of the complaint would show that though in the typed copy, it was mentioned that it was respondent No.2 who had made the petitioner's head bang against the wall and had also given him beatings, no allegations have been leveled against SHO/respondent No.3. Though at one place in the typed complaint, it was mentioned that respondent No.3 was the one who had made him stand till 10:00 P.M. however, the name of respondent No.3 was cut by hand and in place of it, SI/respondent No.2 was put. It is only in his presummoning evidence that the petitioner has attributed this role to the SHO/respondent No.3. It is also worthwhile to note that CW2 and CW3, who were examined in support of the complaint, were not witnesses to the incident and have stated what had been told by the petitioner.

8. Considering that the allegation against respondent No.3 is not borne out from the complaint and is a clear improvisation, I find no ground to interfere with the impugned order. Accordingly, the petition is dismissed.

MANOJ KUMAR OHRI, J

MAY 10, 2024

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