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

+ **W.P.(CRL) 1010/2024**

NITISH JAISWAL

..... Petitioner

Through: Mr. Lovkesh Sawhney, Sr. Adv. with
Mr. R.K. Tarun, Mr. M.P. Singh, Ms.
Aditi Shivadhatri and Mr. Rohit
Kumar, Advs.

versus

STATE OF NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel for
State with Insp. Sandeep Kumar
Ahlawat Police Station Burari Delhi

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

02.04.2024

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CRL.M.A. 9597/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(CRL) 1010/2024 & CRL.M.A. 9598/2024

3. The present petition has been filed seeking following relief:

*“i. Issue Writ in the nature of Mandamus or any other Writ,
to Quash the FIR No 166/24, U/s 420 /467/ 468/ 471/ 120B
IPC, PS: Burari and the proceedings emanating therefrom,
in the interest of Justice”*

4. The learned senior counsel for the petitioner invites the attention of
the Court to the FIR to contend that no role has been ascribed to the present



petitioner in the entire FIR except that in the last one line where it has been alleged that the present petitioner, co-accused Kishan Pehelwan alongwith other persons were trying to sell the disputed plot by creating forged documents. He submits that in the FIR the entire allegations are against one Ajay Rana and Kishan Pehelwan.

5. He submits that the petitioner has already filed a suit for permanent injunction against the complainants before the Civil Judge, Tis Hazari which is pending and the said civil suit was filed prior to the registration of the FIR. The petitioner is the owner of the property in question, in as much as he has the complete chain of documents which establishes his title over the said property.

6. He submits that the petitioner had even filed a W.P.(C) 16151/2023 against the MCD when the MCD had issued a show cause notice to the petitioner proposing to demolish the construction he was trying to raise on the plot in question only after getting the site plan sanctioned from the MCD on 02.01.2024.

7. He further submits that a representation has also been made by the petitioner to the police on 06.03.2024 against the present complainant but no action has been taken by the police.

8. He invites the attention of the Court to Annexure P8 to contend that an FIR has already been registered by the police against the property dealer Monty Sharma, who is acting on behalf of the complainant and whose name also finds mention in the FIR registered at the instance of the complainant.

9. According to Mr. Sawhney, the FIR against Monty Sharma was registered on the basis of a complaint made by the Beat Constable Rakesh.

10. In view of the above, issue notice. Learned Standing Counsel for the



State accepts notice. He does not dispute the filing of civil suit by the petitioner against the complainant but submits that the complaint filed by the complainant is prior to the filing of suit by the present petitioner. He, on the instructions from the I.O, who is present in Court, submits that for the present there is no move to arrest the petitioner, however, if at a later stage of the investigation there is any need to arrest the petitioner, the same will be done in accordance with law.

11. Having regard to the nature of the allegations made in the FIR and the submissions of the learned senior counsel for the petitioner, as well as, the learned Standing Counsel for the State, it is directed that in the event the police intends to arrest the present petitioner, a 07 days notice in writing shall be served upon the petitioner to enable him to take recourse to legal remedies available to him in accordance with law, against the proposed arrest.

12. The learned senior counsel for the petitioner submits that the petitioner shall join the investigation and shall hand over the chain of documents to the IO. The statement is taken on record.

13. In view of the above, the learned senior counsel, on instructions, seeks to withdraw the present petition with liberty to file fresh one at a later stage, if so advised.

14. The petition alongwith pending application, is disposed of with liberty as aforesaid.

VIKAS MAHAJAN, J

APRIL 2, 2024



N.S. ASWAL