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

+ **CRL.M.C. 5078/2022**

PAWAN KUMAR

.....Petitioner

Through: Mr. A.K. Dubey, Advocate with
Petitioner in person.

versus

GOPI AND ORS.

.....Respondents

Through: Mr. Harshit Jain (DHCLSC), Mr.
Shubham Singh, Mr. Deepak Kumar,
Mr. Humant Uppal and Mr. Prawesh
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
22.08.2024

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1. The Petitioner has approached this Court challenging the Order dated 08.07.2022 passed by Principal District and Sessions Judge, East District, Karkardooma Courts, Delhi upholding the Order dated 08.04.2021 passed by the Ld. CMM (East), KKD, Delhi dismissing the application filed by the Petitioner under Section 156(3) Cr.P.C.

2. The facts of the case as stated before the Magistrate is that the Complainant moved an application under Section 156(3) Cr.P.C stating that he has been beaten up by his neighbour when the Complainant objected the accused neighbour to not drink liquor in front of his house. It is stated that the Complainant had suffered injuries during the assault but no action was taken by the police. The Magistrate vide Order dated 08.04.2021 disposed of the application by stating that no cognizable offence is made out and,



therefore, the application filed under Section 156(3) Cr.P.C is not maintainable. However, the Magistrate took cognizance of the offence under Section 200 Cr.P.C and the complaint is proceeding in accordance with law.

3. The Order dated 08.04.2021 was challenged by the Petitioner and the Principal District and Sessions Judge disposed of the Petition vide Order dated 08.07.2022 by observing as under:

“6. The status report was called by the Trial court wherein the IO has observed that he has visited the spot and made inquiries from the neighbours and also recorded their statement. It was found out that both the parties had quarreled with each other but went to their respective homes and the alleged offending party did not enter the house of the revisionist. It is clearly observed that there was mild quarrel which took place between the parties.

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7. On perusal of the documents on record, it is found out that prima facie no injury is caused to the revisionist which calls for a cognizable offence having been made out. There is nothing on record which could suggest that any kind of custodial interrogation is required by the police. All the facts and circumstances of the matter are within the knowledge of the complainant. Nothing is to be recovered at the behest of the accused persons. In such a situation it would not be appropriate in the eyes of law to order for registration of FIR straightway.

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9. It is clearly culled out from the aforesaid judgment that FIR is strictly to be registered under Section 154 of Cr. PC where the facts discloses commission of a cognizable offence and not otherwise.



10. In the present case keeping in view the facts available on record along with documents a prima facie case of non cognizable offence is made out. Therefore, in such a case FIR cannot be registered.”

4. In view of the above, this Court is not in a position to interfere with the concurrent findings by the Court below that cognizable offence is not made out. However, in view of the finding by the Magistrate that non-cognizable offence is made out, it is always open for the Petitioner to approach the police authorities for necessary action in accordance with law.

5. With these observations, the petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 22, 2024

S. Zakir