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

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Date of decision: 12th September, 2024

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CRL.M.C. 103/2020**DURGAWATI**

.....Petitioner

Through: Ms. Nikita Sharma, Advocate (DHCLSC) &
Mr. Alok Sharma, Advocate with petitioner
in person.

versus

STATE

.....Respondent

Through: Mr. Hemant Mehla, APP for State.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. A Criminal Miscellaneous Petition under Section 482 Cr.P.C. has been filed on behalf of the petitioner Durgawati for setting aside the Order dated 06.09.2019 vide which the learned ASJ has upheld the Order of the learned M.M dated 22.02.2019 whereby the Complaint under Section 200 Cr.P.C. filed on behalf of the petitioner, was dismissed.

2. Briefly stated, the petitioner in her Complaint under Section 200 Cr.P.C. supported with an Application under Section 156(3) Cr.P.C. in CC No.3248/2018 P.S. Okhla Ind. Area, had stated that the petitioner was a tenant since 2007 in the property to respondent No.1, the landlord. On 31.03.2018 Ms. Rinki, accused No.3, daughter of respondent No.1 suddenly came to the premises of the petitioner while she was not present at home. She manhandled the daughter Neelu of the petitioner. After the physical and verbal abuse of the daughter, she called the PCR at No.100 and made false accusations of violence against the daughter of the petitioner.



3. The petitioner was called to the Police Station and while she was in the Police Station, the respondents again reached her house and hit her daughters and used filthy language against them. The neighbours of the area reached the spot and called her and informed about the incident which was also heard by the police officials present in the Police Station. She rushed back to her house and took her daughters for medical treatment. The Police also reached her house and witnessed the vandalization of the belongings in her house. She informed the Police about theft of articles allegedly committed by the respondents. The petitioner and her husband were again called to the Police Station where they remained present between 09:00 P.M to 01:00 A.M, but no FIR was lodged. She then gave a written Complaint about the incident to the SHO which was taken vide DD No.32B dated 03.04.2018 and the copy was forwarded to Dy. Commissioner of Police.

4. Since no action was taken on her complaints by the Police, she filed her complaint under Section 200 Cr.P.C read with Section 156(3) Cr.P.C, which got dismissed vide Order dated 30.06.2018. The Revision preferred by her was also dismissed by the learned ASJ vide Order dated 22.02.2019.

5. Aggrieved by the Order, the present Revision Petition has been filed, wherein ***the impugned Order has been challenged*** on the ground that on her complaint, the FIR should have been mandatorily registered as observed by the Apex Court in the case of Lalita Kumari vs Government of U.P. & Ors., (2013) 14 SCR 713. She is a semi literate woman belonging to lower income group of the Society and is essentially dependent upon her husband and the Advocate provided by Legal Aid. She has asserted that there was no proper appreciation of the facts including her complaint dated 03.04.2018 filed with the SHO and that no action was taken by the Police. Her



testimony as CW1 narrating the entire set of facts has been completely overlooked. Her statement on Oath that the respondents along with 2-3 persons gave beatings to her daughter, while she was at Police Station, has been completely over looked. Moreover, even though no MLC or medical document had been placed on record to prove the beatings given to the daughter, but she is having an MLC of her daughter Neelu issued by JPN Apex Trauma Centre, AIIMS Hospital, New Delhi dated 31.03.2018, but the counsel for the Petitioner failed to place the same on record.

6. The Action Taken Report submitted by ASI Yogesh Kumar, where he had stated that the petitioner was a tenant in the premises owned by respondent No.1, has been overlooked. Though no list of goods thrown out of her house nor any photograph or documents in support of her averments could be placed by her on record inadvertently, but she has photographs of the premises showing the broken and strewn articles.

7. The petitioner had categorically stated in her Complaint that cash of Rs.9,000/-, gold earrings of her daughter were found missing. In her deposition as CW1 she had stated that a sum of Rs.9,000/- and gold earrings of her daughters were missing. Although, there was a discrepancy in the amount of cash stated in her Complaint and in her testimony, but that was a typographical error. She has the Bill to prove the purchase of earrings, but all the requisite documents inadvertently were not placed on record. It is, therefore, submitted that the impugned Order is liable to be set aside.

8. Learned Prosecutor has argued that the learned ASJ has upheld the Order of the learned M.M rejecting the Complaint under Section 200 Cr.P.C by giving detailed and cogent reasons. There is no infirmity in the impugned Order and the present Petition is liable to be rejected.



9. **Submissions heard.**

10. The petitioner is aggrieved by inaction by the Police and non-registration of FIR on her Complaint dated 03.04.2018, wherein she had allegedly disclosed commission of cognizable offence of beating and alleged theft of Rs.9,000/- and gold earrings. The petitioner in support of her averments made in Complaint under Section 200 Cr.P.C., had examined herself as CW1. She as per her own admissions was not present at the time of alleged incident, when daughter of respondent No.1 entered into her house and gave beatings to her daughter.

11. The second witness examined by her was CW-2 Ms. Manju who had deposed that on 31.03.2018 at about 12:00 noon a quarrel had taken place between Neelu and Baby daughters of the petitioner and Rinki daughter of respondent No.1. However, she along with other neighbours intervened and brought the daughters of the petitioner to her house. Later respondent No.2 Ms. Rinki, came to her house and again gave beatings to Neelu and Baby. The Police was called, but the respondent No.2 fled from spot.

12. The testimony of CW2 Ms. Manju is at variance with the version put forth by CW1. According to her, a scuffle had taken place between two daughters of the Complainant, but according to the petitioner the scuffle had taken place with her elder daughter. While CW2 asserted that subsequently respondent No.2 had come to her daughters and gave them beatings, but the testimony of CW1 is absolutely silent in this regard. From the testimony of CW2 who claims to be an eye witness, the maximum that gets proved is about a scuffle having taken place between the daughters of petitioner and the daughter of respondent No.1

13. The petitioner has alleged that her daughter suffered from injuries for



which she was treated at AIIMS Hospital. She also claimed that her money and pair of gold earrings were also stolen, but admittedly, all this had happened when she was away from her house. CW2 Ms. Manju the neighbour had not deposed a word about these allegations.

14. Moreover, the petitioner herself has admitted in her present Petition that she had not filed any medical documents, or photographs or Bill of purchase of gold jewellery on the specious ground that her Advocate had failed to place all the supportive documents on record. Even otherwise, when the basic averments of beatings and theft have not been established by any ocular evidence, these alleged documents, even if taken on record, would not improve the case of the petitioner in any manner.

15. During the course of the arguments the petitioner was present in the Court has admitted that she has vacated the tenanted premises in the year 2019. She has also pointed out that there is an FIR against the landlord in respect of alleged incident of fighting, which is pending trial.

16. Aside from the scuffle between the two daughters of the petitioner and the daughter of respondent No.1, no averment as made in the Complaint have been proven from the evidence adduced by the petitioner in the Complaint under Section 200 Cr.P.C. The learned ASJ has rightly upheld the Order of the learned M.M. dismissing the Complaint under Section 200 Cr.P.C.

17. There is no merit in the Petition, which is hereby rejected.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 12, 2024

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