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

+ **CRL.REV.P. 1043/2024**

RAMCHANDRA

.....Petitioner

Through: **Mr.Ashok Kumar, Advocate**

versus

THE STATE N.C.T. OF DELHI & ORS.

.....Respondents

Through: **Ms.Meenakshi Dahiya, APP for State
with Mr.Jatin Raheja, Mr.Nikhil
Malhotra, Mr.Pushkar Khatana,
Mr.Vishal Tanwar, Mr.Nitin Soni,
Mr.Ashok Hooda, Mr.Akash Khatri
and Mr.S. Nanda, Advocates.
R-6 in person.**

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

22.08.2024

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CRL.M.A. 25061/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.REV.P. 1043/2024

1. Criminal Revision Petition under Sections 397/401 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner challenging order dated 08.07.2024 passed by learned Special Judge (SC/ST Act), South-East District, Saket Courts, New Delhi in CC No.1/2024, whereby an application under Section 156(3) Cr.P.C. filed on behalf of the petitioner for directing registration of FIR against respondent No.2 to 6 for offences punishable under Section 3(1)(za) (E) & Section 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC & ST (POA) Act'), was dismissed.



2. Learned APP for the State appears on advance notice.
3. In brief, as per the facts recorded in impugned order, petitioner runs a vendor site of selling mobile phone covers and accessories. He alleged that on 22.03.2023, accused came to his shop and threw his goods/saleable articles. Complaint in this regard to SHO was made on 23.03.2023 and with MCD for removing encroachment by accused on 27.03.2023. It is further alleged that as a counter to aforesaid complaint, accused lodged a complaint with MCD on 26.05.2023 and acting upon the same, officers of MCD had only removed his shop since he belongs to certain caste. FIR No. 364/2023 under Sections 3(1)(r) & (s) of SC & ST (POA) Act was registered at P.S. Kalindi Kunj on 27.07.2023. Petitioner preferred an application under Section 156 (3) Cr.P.C. for directing registration of FIR against respondent No.2 to 6 for offences punishable under Section 3(1)(za) (E) & Section 4 of SC & ST (POA) Act which was dismissed by learned MM vide impugned order.
4. The grievance of the petitioner is that facts also disclose commission of offence under Section 3(1)(za) (E) & Section 4 of SC & ST (POA) Act. The contentions raised before learned MM are reiterated by learned counsel for petitioner.
5. As per action taken report filed before the learned Trial Court, complainant/petitioner was specifically enquired at the stage of investigation about offences falling under Section 3(1)(za) (E) & Section 4 of SC & ST (POA) Act and in his supplementary statement, complainant clarified that other vendors had removed their shops/reharies on their own and since petitioner did not remove his shop, the same was removed by the MCD. The prayer for addition of aforesaid section in FIR is also stated to have been



withdrawn by the complainant/petitioner on 05.10.2023.

6. The reasons recorded by learned Trial Court in paragraphs 32 to 34 of impugned order dated 08.07.2024 may be beneficially reproduced:

“32.Now, the claims of the complainant, that facts of the complaint require thorough investigation, for the purpose of offence committed against the complainant, the complaint of the complainant dated 23.03.2023 for the incident dated 22.03.2023 are required to be taken into consideration and the same are narrated at para no.18 of the present order (same are not repeated for the sake of brevity). The aforesaid complaint nowhere discloses the name of the alleged accused persons to have committed any offence for the offences punishable under the SC/ST Act. The complainant has stated in his complaint as follows

“'....On the aforesaid background and due to the same reason on 22.03.2023, at around 9:25 pm, accused Dharmender Soni threw away the articles of the complainant shop and also torn the shed of the shop. At 9:30 pm complainant gave a 100 number call and after sometime, police returned the call on mobile number 8595949395 to know if there was any further quarrel and upon which the complainant replied that there was peace and thereafter, complainant was directed to give his complaint to the police station on the next day. Complainant has alleged that all his articles were thrown away due to which the articles of the complainant were damaged. Complainant had made the video and clicked the photographs which he had annexed with his complaint. Further, that complainant had been deceived and he shall mention regarding the same before the Court. Also that action should be taken against Dharmender Soni”. The complainant in his aforesaid complaint has not mentioned any derogatory remarks or insult or abuses if any which were used by the alleged accused persons. In fact in the aforesaid incident dated 22.03.2023 the complainant has nowhere mentioned the presence of accused no.2 to 5. It has only been mentioned that accused no.1 had allegedly come



and had thrown the articles of the shop of the complainant and upon which complainant made a call at 100 number and thereafter, complainant on the next date gave his written complaint to the police station that is on 23.03.2023 vide DD No.25A. After carefully perusing the aforesaid complaint and its contents no cognizable offence is made out against the alleged accused persons under the SC/ST Act. Further, the complainant has no where or described the manner in which the alleged incident occurred or stated that the alleged incident occurred in the presence of public persons or in public view or that in the aforesaid incident the complainant was intentionally insulted or intimidated or abused since he was a member of a scheduled caste or scheduled tribe. The complainant has failed to even mention the name of any public person in whose presence the alleged incident took place.

33.Mere allegations about the commission of offence without any material in support thereof would not justify orders for investigation U/s 156 (3) Cr.P.C. Therefore, where the complaint of the complainant does not disclosed commission of cognizable offence court would not order investigation u/s 156 (3) Cr.P.C. In the present complaint, complainant has no where mentioned the presence of accused no.2 to 5 on 22.03.2023. Further, the 100 number call allegedly made by the complainant also does not find mention regarding the presence of the alleged accused persons on the spot. After, carefully pursuing the complaint of the complainant dated 23.03.2023, it can be seen that the complainant has mentioned about the history of his relations with the accused persons in length and after the same has described the alleged incident dated 22.03.2023. In the aforesaid incident the complainant has no where stated that the alleged incident occurred with him as he belong to scheduled caste and his articles from his shop were thrown away for the reason that he belong to 'Jatav' caste. I find no merit, in the complaint U/s 156 (3) Cr.P.C. filed by the complainant. The complaint of the complainant mentions vague allegations, which do not amount to



commission of any cognizable offence. The order for registration of an FIR cannot be mechanically passed and requires application of mind by carefully considering the allegations in the complaint which should specifically mentioned commission of a cognizable offence. The Court is require to use its discretion judiciously and not in the mechanical manner. After carefully, going through the complaint of the complainant prima facie no case is made out against the accused persons. Therefore, the present complaint of the complainant U/s 156 (3) Cr.P.C. stands dismissed.

34.Put up for Pre-Summoning Evidence on 12.08.2024.”

7. This Court is of the considered opinion that there is no infirmity in the order passed by learned Trial Court and the same does not require any interference by this Court in Revision.

Petition is accordingly dismissed. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J

AUGUST 22, 2024/v