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

+ **CRL.M.C. 6648/2024**

RAMESH KUMARPetitioner

Through: Mr. Rajbir Singh Sagar with Mr.Rajiv
Pratap Singh, Advocates with
petitioner in court.

versus

THE STATE (NCT OF DELHI) AND ORSRespondents

Through: Ms. Shubhi Gupta, APP for the State
with SI Karan Singh, P.S.: Gorripur.

+ **CRL.M.C. 6651/2024**

RAMESH KUMARPetitioner

Through: Mr. Rajbir Singh Sagar with Mr.Rajiv
Pratap Singh, Advocates with
petitioner in court.

versus

THE STATE (NCT OF DELHI) AND ORSRespondents

Through: Ms. Shubhi Gupta, APP for the State
with SI Karan Singh, P.S.: Gorripur.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **27.08.2024**

CRL.M.A. 25389/2024 in CRL.M.C. 6648/2024

CRL.M.A. 25391/2024 in CRL.M.C. 6651/2024

Exemption allowed, subject to just exceptions.

Applications stand disposed-of.

CRL.M.C. 6648/2024

CRL.M.C. 6651/2024

By way of the present petitions filed under section 482 of the
Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner impugns
judgments dated 13.05.2024 passed by the learned ASJ in Crl. (R.)



Nos.240/2023 and 239/2023, thereby dismissing a challenge to orders dated 14.08.2023 made by the learned Metropolitan Magistrate on applications filed under section 156(3) Cr.P.C. in Ct. Cases Nos.1581/2022 and 1430/2022 *declining police investigation*.

2. Though the present petition has been filed under the provisions of the Code of Criminal Procedure 1973 ('Cr.P.C.'), in the opinion of this court, on a plain reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or made*" in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. "*any appeal, application, trial, inquiry or investigation*", were already ***pending*** immediately before the date on which the BNSS came into force, *i.e.* 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings by changing the governing law during the pendency of such proceedings.
3. Since the present petition has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 528 of the BNSS.
4. It may be observed that by way of orders dated 14.08.2023, the learned Magistrate has nevertheless *taken cognizance* of the offences alleged by way of the criminal complaints filed by the petitioners under section 200 of the Cr.P.C.
5. While disposing-of the applications under section 156(3) Cr.P.C., the learned Magistrate has observed as follows :



“9. In view of the material on record, preliminary enquiry report of the IO and after hearing the submissions of counsel, it seems that the facts of the case do not require registration of FIR as the identity of the accused is known to the complainant, all the facts and circumstances of the case also appears to be within the knowledge of the complainant and evidence can be conveniently taken without assistance of police investigation. Therefore, in the facts of the present case, there appears no requirement of police investigation. Further, if there is any need, police inquiry can be had (sic) u/s 202 Cr.P.C. for verification of any documents or for any other purpose, if required.”

“10. Accordingly with the above observations, application u/s 156(3) Cr.P.C. is dismissed.

“11. However, I take cognizance of the offence u/s under section 200 Cr.P.C. The case be re-listed for pre summoning evidence. The complainant is at liberty to prove his case by way of evidence and the complainant is directed to produce evidence and witnesses at his own efforts.”

(emphasis supplied)

6. This order of the learned Magistrate has been upheld and the revision petitions have been dismissed by the learned Sessions Court with the following observations :

“9. Therefore, I am of the opinion that there is no need of ordering any investigation in the present matter, as there exists a civil dispute between the parties. Even otherwise, allegations of the revisionist are primarily of civil nature and evidence to prove the same is within capacity and possession of complainant. Thus, there is no requirement of any police investigation at this stage. No infirmity is found in the impugned order of Ld. Trial Court. Revision petition is accordingly dismissed, being devoid of merits.”¹

(emphasis supplied)

¹ Extracted from judgment dated 13.05.2024 made by the learned Sessions Court in Crl. (R.) No. 240/2023



7. Mr. Rajbir Singh Sagar, learned counsel appearing for the petitioner submits that the petitioner seeks registration of FIRs since the private respondents have occupied property that belongs to him, by committing the offences as alleged in the criminal complaints. Counsel states that the petitioner has been put out of possession of the subject property; and it is his contention that the criminal complaints pending before the learned Magistrate are not proceeding with requisite expedition.
8. Upon being queried, Mr. Sagar submits that both criminal complaints are now at the stage of recording complainant's evidence; and are listed before the learned Magistrate next on 03.09.2024.
9. Upon a conspectus of the facts and circumstances of the case, this court finds no ground to interfere with judgments dated 13.05.2024 passed by the learned Sessions Court in Crl. (R.) Nos. 240/2023 and 239/2023; nor is there any ground to interfere with orders dated 14.08.2024 made by the learned Magistrate in Ct. Cases Nos. 1581/2022 and 1430/2022.
10. However, in order to assuage the petitioner's apprehension, the learned Magistrate is directed to proceed with the matters as expeditiously as possible.
11. The petitions are disposed-of.
12. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 27, 2024

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