



\$~18

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

+ CRL.M.C. 6139/2018, CRL.M.A. 48765/2018, CRL.M.A. 48766-67/2018

MANMEET SINGH JOHAR

.....Petitioner

Through: Ms.Gayatri Nandwani and Ms.Mudita Sharda, Advts.

versus

STATE OF NCT DELHI & ORS

.....Respondents

Through: Mr.Mukesh Kumar, APP for the State.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

08.10.2024

%

The present application has filed challenging the order dated 23.10.2018, passed by the court of Learned Additional Sessions Judge (West), Tis Hazari Courts, in Criminal Revision No. 317/2018. Vide which the Learned Sessions Court dismissed the revision application and upheld the order of the Learned Magistrate dated 01.09.2018 in Complaint Case No. 7453/17.

Vide order dated 01.09.2018, in a private complaint, Case No. 7453/17, filed by the petitioner, the learned M.M.-02 (West), Delhi, declined the prayer under Section 156(3) of the Cr.P.C. and posted the matter for pre-summoning evidence. This order was challenged by the petitioner before the learned Additional Sessions Judge in Criminal Revision Petition No. 317/2018, which was also dismissed. Consequently, the petitioner has invoked the jurisdiction of this court. In ***Babu Venkatesh and Others vs.***



State of Karnataka and Another (2022) 5 SCC 639, the Supreme Court examined the application of Section 156 of the Cr.P.C. regarding police investigation powers. The Court reiterated that a magistrate has the discretion to either direct a police investigation under Section 156(3) or to take cognizance of the case directly. The scheme of the Code of Criminal Procedure clearly lays down that upon the filing of a private complaint, the learned Magistrate has the option of either referring the matter to the police for investigation under Section 156(3) Cr.P.C. or to take cognizance and adjourn the matter for recording of pre-summoning evidence. There is no illegality or perversity in the order of the learned M.M. The discretion under Section 482 Cr.P.C. should be exercised cautiously and only to prevent the abuse of the court process or to ensure justice is not miscarried. While exercising jurisdiction, the Court has to see whether there is some patent illegality or perversity in the impugned order. An order cannot be set aside merely as the second that another view could have been taken. The only test is that whether the view taken is a plausible view and falls within the four corners of law.

The Court does not see any illegality or perversity in the impugned order. Hence, the present petition is dismissed.

All the pending applications also stand disposed of.

DINESH KUMAR SHARMA, J

OCTOBER 8, 2024

rb/na..