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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 14th January, 2025***+ **CRL.M.C. 149/2025, CRL.M.A. 833/2025 (stay)**

RAJAN HANDA

.....Petitioner

Through: Mr. Rakesh Lakra, Ms. Shivani Kher
and Mr. Bhavya Sharma, Advocates.

versus

1. STATE
THROUGH THE SHORespondent No.12. PARDUMAN KUMAR HANDA
S/o Lt. Nanak Chand HandaRespondent No.23. UJJWAL HANDA
S/o Parduman Kumar HandaRespondent No. 3
Through: Mr. Satinder Singh Bawa, APP for
the State with SI Sachin Kumar, PS
Amar Colony, New Delhi.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CRL.M.A.834/2025 (Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CRL.M.C. 149/2025

3. The Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'CrPC'*) read with Section 528 of the Bhartiya Nagarik Surkasha Sanhita, 2023 (*hereinafter referred to as*



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'B.N.S.S. '), has been filed on behalf of the Petitioner, to challenge the Order dated 12.11.2024 whereby the learned ASJ upheld the Order dated 23.02.2024 passed by the learned Metropolitan Magistrate, *dismissing the Application under Section 156(3) of CrPC.*

4. ***Briefly stated***, Complaint under Section 200 of CrPC along with an Application under Section 156(3) of CrPC, was filed for registration of FIR under Section 403/406/465/467/471/120-B of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC, 1860'*).

5. The main allegations made by the Petitioner, were that the Complainant, Respondent No. 2, Mr. Parduman Kumar Handa and Respondent No. 3, Mr. Ujjwal Handa are the father and brother, respectively, of the Petitioner/Complainant. They have *inter se* disputes and a *Civil Suit for Permanent and Mandatory Injunction*, has been filed by the Petitioner against the Respondents. It was further claimed that in order to secure a favourable outcome, a forged, fabricated and unregistered Partnership Deed allegedly pertaining to Partnership Firm, M/s Anjana International Industries, was made, which had the forged signatures of the Petitioner.

6. It was claimed that M/s Anjana International Industries is the Proprietorship concern of the Petitioner, but merely to gain undue benefits and to extort money, this unregistered forged Partnership Deed has been created.

7. The Respondent No. 2/father of the Petitioner has committed breach of trust by handing over the two cars belonging to the Proprietorship Firm of the Petitioner, to the Respondent No. 3/brother of the Petitioner, without his



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consent and authorisation. Likewise, the Respondent No. 3 has also dishonestly misappropriated the two cars by retaining and using them without the permission of the Complainant/Petitioner. The Petitioner alleged that the two said cars are missing and have been deliberately concealed by the respondents. The Petitioner had thus, sought registration of FIR against the Respondents.

8. The learned Metropolitan Magistrate referred to the principles enumerated in the Case of M/s Skipper Beverages Pvt. Ltd. vs. State, 92 (2001) DLT 217 and Vijay Gupta vs. Development Credit Bank Ltd., 2019 SCC OnLine Del 6665 and observed that there was no field investigation required and all the evidence was within the reach of the Petitioner. The identity of the proposed accused persons, was also known. Admittedly, there were civil disputes going on between the parties and the alleged forged documents have been submitted during the pendency of the civil litigation in the Court. It was thus, observed that it was not a fit case for exercise of discretionary power under Section 156(3) of CrPC and the Application was dismissed while an opportunity was given to the Petitioner to lead pre-summoning evidence in his Complaint under Section 200 of CrPC.

9. The Petitioner preferred a Revision Petition before the learned ASJ, who after considering the facts and the contentions of the parties, observed that the learned Metropolitan Magistrate has rightly rejected the Application under Section 156(3) of CrPC *vide* a speaking Order and no interference was merited.

10. Aggrieved, the Petitioner has filed the present Petition under Section 482 of CrPC.



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11. **Submissions heard and record perused.**

12. From the facts as narrated above, there is evidently a civil dispute between the Petitioner, and his father and brother, who are the Respondents. A civil litigation is already pending between the parties. What emerges from the averments made, is that there are two cars that have been purchased in the name of the Firm, which is being used by the father and the brother of the Petitioner.

13. The *main grievance* of the Petitioner seems to be his father has unauthorisedly permitted the brother to use the two cars. The moot question which has been raised by the Parties is, whether the Firm in whose name the cars were purchased, is a Proprietorship Firm of the Petitioner or was converted into a Partnership Firm. As has been rightly observed, the dispute is essentially civil in nature and is *inter se* the family members. The identity of the accused persons, is known and also no police investigations are required in the present case.

14. In any case, if at any stage, the requirement of police assistance is felt, the learned Metropolitan Magistrate even while conducting an enquiry under Section 200 of CrPC, is empowered to direct Police investigation under Section 202 CrPC. What has been dismissed is only an Application under Section 156(3) of CrPC. However, it is not as if the rights of the Petitioner have been foreclosed, but registration of FIR is deferred for recording of evidence under Section 200 CrPC.

15. There is no infirmity in the impugned Order and the present Petition is hereby dismissed.

16. The Petition is disposed of accordingly along with the pending



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Application.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 14, 2025/RS