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

+ **CRL.M.C. 414/2023**

SURENDER AGGARWAL

.....Petitioner

Through: Mr. Yogesh Goel, Mr. Yesh Pal Saini
and Mr. Aryan Singh, Advocates.

versus

STATE & ANR

.....Respondent

Through: Mr. Digam Singh Dagar, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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20.05.2025

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Section 482 of the CrPC seeking the following prayers:

“(a) Quash/Set aside the impugned order dated 14.02.2022 passed by Sh. Anuj Kumar Singh, Ld. MM, North West, Rohini, Delhi in Ct. Case No. 2217/2019 Titled as Surender Aggarwal vs Constable Rajesh Rana., whereby the Ld. Trial Court has dismissed the application U/s 156(3) CRPC of the petitioner.

(b) Quash/Set aside the impugned order dated 23.11.2022 passed by Shri Babru Bhan, ASJ-03 (North West), Rohini, Delhi in Cr. Rev. Petition · No.SS/2022 titled as "Surender Aggarwal & Ors., whereby the Ld. Lower Court has dismissed the Crl. Revision petition of the petitioner, in the interest of justice;

(c) Issue/pass such other suitable appropriate direction/ order(s) as deemed just, fit and proper thereby directing the registration of an FIR against the Respondent No.2 herein;

(d) Pass any other and further order as this Hon'ble Court may deem, fit, just and proper in the facts and circumstances of the case”

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3. The case of the petitioner is that an FIR bearing No. 124/2018 under Sections 341/323/354/34 of the IPC was registered on 11.05.2018 against the police officials of P.S. Rani Bagh. In the said FIR, it was alleged that:

- a) On 06.05.2018, at about 10:15 p.m., the scooty parked outside the petitioner/complainant's house was lifted by certain police officials who were posted at P.S. Rani Bagh and the scooty was taken to the said Police Station.
- b) Thereafter, the police officials informed the petitioner's security guard to tell him to come to the Police Station, pursuant to which the petitioner's younger son reached the said Police Station. Petitioner's son was asked by the officials to pay some money, and on refusing to do so, the petitioner's son was assaulted and his mobile phone was snatched by the police officials. Later, when the petitioner's elder son went to the Police Station to inquire about his younger brother, he too was beaten up by the police officials.
- c) It is also alleged that the police officials threatened the petitioner's sons by saying that they would implicate them in false cases. Thereafter, when the petitioner and his wife reached the Police Station, he was beaten up by fists and blows by the police officials. It is stated that the petitioner's brother-Ajay Aggarwal had called the Station In-charge and provided all the information of the incident, after sometime, when the Station Incharge reached the Police Station, he was apprised of the incident upon which he informed the petitioner that necessary action would be taken against the officials. Later, the petitioner and his family members went to Saroj Hospital, Rohini for medical treatment.

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4. It is the case of the petitioner that after the investigation was complete, a chargesheet was filed before the Court of competent jurisdiction on 02.07.2019. It is alleged that one Constable Rajesh Rana, *i.e.*, respondent no.2 actively pressurized the petitioner/complainant to withdraw the said FIR. It is further alleged that, thereafter, respondent no.2 started threatening the petitioner that he would implicate the latter in false criminal cases after which the petitioner approached higher police authorities. It is further submitted that respondent no.2 had approached one person, namely, Anuj Aggarwal, who was the acquaintance of petitioner's brother and asked him to settle the matter with the police officials, after which the petitioner lodged a complaint case against respondent no.2. It is stated that the said complaint was not entertained by the police officials and aggrieved by the same, the petitioner/complainant filed a complaint under Section 200 of the Cr.P.C. along with an application under Section 156(3) of the Cr.P.C. The said application was dismissed by the learned Metropolitan Magistrate *vide* order dated 14.02.2022 and the complaint case was fixed for the petitioner to lead pre-summoning evidence.
5. Aggrieved by the aforesaid order, the petitioner preferred a Revision Petition bearing no. 55/2022 before the Court of learned Additional Sessions Judge, which was dismissed *vide* the impugned order dated 23.11.2022.
6. Learned counsel appearing on behalf of the petitioner submits that the aforesaid orders are not sustainable in law as the learned Courts below have ignored the allegations made by the present petitioner in his complaint against the respondent no. 2 who is a public servant and the offences alleged against him are cognizable in nature. It is prayed that the said order be set aside and a direction be given for registration of FIR against the respondent no. 2.
7. *Per contra*, learned APP for the State submits that apart from the fact

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the learned Metropolitan Magistrate had rightly rejected the application under Section 156(3) of the Cr.P.C. while recording the fact that there is no requirement for any investigation which was upheld by the learned Additional Sessions Judge. Further, the ATR had also been filed in the present case before the learned Metropolitan Magistrate, wherein, it is stated that the allegations in the present complaint are hearsay as Mr. Anuj Agarwal did not join the investigation.

8. Heard the learned counsel for the parties and perused the records.

9. The primary contention of the petitioner is that allegations in his complaint against respondent no.2 are cognizable in nature and there is a need for proper investigation to unearth the facts of the present case. Further, it is alleged that respondent no.2 approached an acquaintance of the petitioner's brother namely one Anuj Aggarwal and tried to influence him. It is also alleged that respondent no.2 threatened the complainant with dire consequences if he did not withdraw his complaint.

10. The learned Metropolitan Magistrate had called for an ATR in the present complaint and while rejecting the application of the petitioner under Section 156(3) of the CrPC *vide* order dated 14.02.2022 had observed as under:

“ATR was called. As per the same, allegations of complainant could not be substantiated and allegations are based on hearsay as Mr. Anuj Aggarwal did not join the enquiry. It is further submitted in the ATR that no cognizable offence was found to be made out.

After going through the complaint and hearing the arguments, it is seen that all the evidence is within the reach and knowledge of the complainant and nothing new is to be collected for which the assistance of the police agency is required. There is no new evidence to be collected by the investigating agency. Even the identity of accused persons is known to complainant. If need arises the investigation u/s 202 Cr.PC can be ordered.”

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11. This Court has examined the complaint filed on behalf of the petitioner. It is noted that the entire complaint gives the narration of the FIR registered at the instance of the petitioner against the police officials. The petitioner had, in fact, also filed an application under Section 156(3) of the Cr.P.C. for monitoring the investigation in the said FIR. So far as the present respondent no.2 is concerned, it is stated as under: -

“IX. That the accused person that is constable Rajesh Rana has been very active in pressurising the complainant to either withdraw complainant or make contrary statement. It is humbly submitted that when the said tactics did not work the said accused person started threatening the complainant with dire consequences for him and his family and also the fact that in case the complainant will not withdraw make contrary statement having effect of not supporting his complainant, then the complainant and his family will be implicated in false criminal cases which will be punishable with either life or death sentence. He also threatened that the persons made accused in the aforesaid FIR will also filed false complaints in order to implicate the complainant and his family and that they have all the means to create false evidence against the complainant and his family.”

12. Subsequently, it is stated that respondent no. 2 contacted one Mr. Anuj Aggarwal. In the ATR filed before the learned Metropolitan Magistrate, it is recorded that the said Anuj Aggarwal never joined the enquiry. Even otherwise as seen from the allegations, there is no specific time, date or place of the incident narrated by the petitioner.

13. It is a well settled principle of law that a second revision petition is not maintainable under Section 397(3) of the Cr.P.C. and the scope of challenge of two concurrent findings under Section 482 of the Cr.P.C., is limited. The petitioner had to demonstrate that the concurrent findings of the courts below



are perverse and are beyond the facts of the case. For this Court to exercise its inherent powers under Section 482 of the Cr.P.C. in interfering with the concurrent findings of the two Courts below, it has to be demonstrated that the illegality in the said orders go to the very root of the matter and, therefore, are not sustainable in law. This Court has gone through the orders passed by the learned Metropolitan Magistrate as well as learned ASJ. Both the Courts have examined the material on record.

14. In view of the aforesaid facts and circumstances of the present case, this Court finds that the impugned orders passed by learned Metropolitan Magistrate as well as learned ASJ does not suffer from any legal infirmity or perversity, and thus, no grounds for interference with the impugned orders are made out.

15. In view of the above, the present petition is dismissed and disposed of accordingly.

16. Pending application(s), if any, also stand disposed of.

AMIT SHARMA, J

MAY 20, 2025/bsr

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