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

+ **W.P.(CRL) 340/2025**

VIJENDER PAL GUPTA

.....Petitioner

Through: Mr. R.D. Singh, Advocate with
Petitioner in person.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC, Crl.,
Mr. Alok Sharma, Mr. Amit Sahni &
Mr. Vasu Agarwal, Advocates for
State.

Mr. Hemant Kumar & Mr. Shivam
Jangar, Advocates for R-2 with R-2 in
person.

S.I. Ravindra, PS Aman Vihar, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

03.02.2025

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CRL.M.A. 2905/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

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3. The present Petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner to set aside the Order dated 03.06.2024 passed by the learned Metropolitan Magistrate *vide* which the Application



under Section 156(3) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as “Cr.P.C., 1973”*) filed on behalf of the Respondent No. 2 has been allowed, directing the Police for registration of FIR, and to quash the FIR No. 195/2024 dated 04.06.2024 under Sections 448/506/34 of the Indian Penal Code, 1860 (*hereinafter referred to as “IPC, 1860”*) registered at Police Station South Rohini, Delhi.

4. The impugned Order dated 03.06.2024 has been challenged on the ground that the learned Metropolitan Magistrate has failed to consider the contention of the Petitioner that he has resided in the Property bearing H.No. A-51, Sanjay Nagar, Gali No. 4, near Mangolpur Kalan Gaon, Delhi (*hereinafter referred to as “subject property”*) with the consent of the Complainant/Respondent No. 2 as a tenant.

5. It is further submitted that the Petitioner has been falsely implicated in the present FIR by the Respondent No. 2 in connivance with the local Police Officials. In fact, the Petitioner was earlier a tenant of one room on the ground floor, Basement hall and one room in the subject property. The Petitioner was doing the business of Private Security Services, but on account of COVID-19 Pandemic, his business went into losses.

6. Thereafter, the Petitioner took the subject property on rent from Respondent No. 2 on 07.12.2020 *vide* Oral Agreement on a rent of Rs. 4,500/- per month, excluding the electricity charges for the purpose of residence and for doing the business of Security Services. The rent was enhanced to Rs. 5,000/- in the year 2022. Thereafter, the Petitioner had been regularly paying the rent to the Respondent No. 2 on or before 15th day of every month.

7. The Petitioner has further asserted that on 25.09.2022, suddenly, the



Respondent No. 2 without any information disconnected the Electricity being supplied through a Private Sub-Meter to the Basement hall, where he was running his business. The Petitioner tried to reconnect the electricity supply, but he was shocked to know that the subject property had been sealed by the Delhi Development Authority (DDA) and without de-sealing and illegally breaking the seal, the subject property had been rented to the Petitioner.

8. Thereafter, on 25.11.2022, the Petitioner sent a Legal Notice to the Respondent No. 2 for restoration of Electricity supply, but got no response.

9. On 26.11.2022, a Complaint was filed by the Respondent No. 2 before the Police Station South Rohini, Delhi for house trespass. Palpably to get the subject property vacated.

10. The Petitioner filed a *Civil Suit* before the learned District Court for Restoration of the Electricity, however, the same was withdrawn on 09.02.2023 by the Petitioner with liberty to file afresh.

11. The Petitioner also filed the Application under Section 45 of the Delhi Rent Control Act along with Application under Section 45(3) of the Delhi Rent Control Act on 14.03.2023.

12. However, the same had been dismissed in default *vide* Order dated 04.01.2025 due to non-appearance of the previous counsel.

13. After filing of the Application under Section 45 of the Delhi Rent Control Act, the Petitioner was manhandled by the Respondent No. 2 along with his son and the local Police Staff and made him vacate the subject property forcibly without due process of law, for which the Petitioner had made various Complaints to the Police as well as to the higher Authorities on 26.09.2023 and 31.10.2023. However, no action has been taken by the



Police.

14. From 26.09.2023, the Petitioner started residing in another rented accommodation i.e., A-247, Utsav Vihar, near Shiv Mandir, Karala, Delhi-110081, though all the household articles and office articles are still lying in the subject property under the lock and key of the Petitioner.

15. It is claimed that the Respondent No. 2 has with *mala fide* intention, concealed the material facts that the subject property had been sealed by the DDA prior to giving it on rent to the Petitioner. It is also asserted that the seal was broken by the Respondent No. 2 without due process of law and just to get advantage, he gave the subject property on rent to the Petitioner.

16. It is also claimed that the Application under Section 153(3) of Cr.P.C., 1973 pertains to a civil dispute which comes under the Delhi Rent Control Act and no trespass under Section 448 of the IPC, 1860 is made out.

17. It is, therefore, submitted that the impugned Order dated 03.06.2024 pursuant to which the present FIR has been registered, is liable to be set aside.

18. **Submissions heard and record perused.**

19. On a specific query put to the learned counsel for the Petitioner as to why the impugned Order dated 03.06.2024 was not challenged before the learned Additional Sessions Judge, he candidly admitted that because the limitation period has expired, he has approached this Court under Writ Jurisdiction. It is not comprehensible as to how the impugned Order is amenable to Writ Jurisdiction under Article 226 of the Constitution of India.

20. It is pertinent to observe that on the last of hearing i.e., 30.01.2025, learned counsel for the Petitioner had made a statement on behalf of the Petitioner that the Petitioner is willing to hand over the possession of the



subject property, but today, the Petitioner has appeared in person along with his counsel and submits that the present Petition may be decided on merits.

21. Be as it may, without going into the technicalities, it is noted that there are specific averments made by the Respondent No. 2 that on 26.11.2022, the Complainant/Respondent No. 2 and his brother visited the subject property and found that it has been trespassed by the Petitioner. Upon confrontation, the Petitioner claimed that he is a retired Police Official running a Security and Detecting Agency and has contact with the Senior Police Officials including one Radhey Mohan Shyam Gupta. The Petitioner refused to vacate the subject property or to pay the rent.

22. Consequently, the Complaint dated 27.11.2022 was filed by the Respondent No.2 which was registered *vide* DD No. 100A at Police Station South Rohini, Delhi, despite which the Petitioner has failed to vacate the subject property.

23. An *Action Taken Report* was submitted by the Investigating Officer on 27.09.2023, wherein it was stated that despite several efforts, the Petitioner has failed to join the Inquiry. No papers of alleged tenancy have been furnished. The statement of other tenants was recorded and the allegations made in the Complaint, were confirmed. Consequently, the FIR has been directed to be registered against the Petitioner under Sections 448/506 of IPC, 1860.

24. The specific averments made in the Complaint *prima facie* disclose commission of cognizable offences which is also evident from the Action Taken Report submitted by the Investigating Officer.

25. In view of the aforesaid discussion, there is no merit in the present Petition which is hereby dismissed with costs of Rs. 25,000/- to be paid to



Respondent No. 2 by the Petitioner within one month.

NEENA BANSAL KRISHNA, J

FEBRUARY 3, 2025

S.Sharma