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

+ **CRL.M.C. 7416/2025, CRL.M.A. 31090-31091/2025**

MUKESH SAWARIYA

.....Petitioner

Through: Mr. Amit Kumar and Mr. Prabhas
Kumar, Advocates.

versus

SANTOSH MALHOTRA & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

16.10.2025

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1. Petition under Section 482 of Cr.P.C. has been filed on behalf of the Petitioner for setting aside Order dated 26.04.2025 passed by learned ASJ, (FTSC) (RC), South West District, Dwarka Court, whereby Order of learned MM dated 15.09.2023, dismissing the Petitioner's Application under Section 156(3) Cr.P.C., was upheld.
2. As per the case of Petitioner, who is a builder, a collaboration deed was executed between the Petitioner Mukesh Sawariya and Respondent No.1 Santosh Malhotra on 22.12.2017, to construct building on the property of Respondents in exchange of ownership rights of first floor. The revisionist agreed to construct third floor for a sum of Rs.16,00,000/- to be paid by Respondent No.1. The revisionist was handed over possession in February, 2018 and started construction in March, 2020, which got delayed due to COVID-19, Lockdown and other circumstances.
3. Petitioner has alleged that despite these uncontrollable delays, which are not attributable to him, Respondent No.2 wrongfully deducted rent



amount from the construction payment by violating collaboration agreement. Eventually, after the construction was complete, Respondent No.1 and his family members refused to hand over the possession of first floor, as was agreed and assaulted the revisionist as well as the third party buyers and forcibly occupied first floor.

4. The matter was reported to the Police multiple times, but no action has been taken. Circumstances, compelling the Petitioner to file Complaint under Section 200 Cr.P.C. with allegations that Respondent No.1, with malicious intent, from the start defrauded him to get the construction complete done without payment and then forcibly ousted him, committing multiple criminal offences under various sections of IPC, including cheating, criminal breach of trust, assault and trespass. These allegations essentially are of breach of collaboration agreement and the underlying dispute is civil in nature.

5. Learned counsel for the Petitioner, on being specifically asked the Police assistance, that is required in the present case, was unable to give any cogent explanation.

6. Learned Trial Court has correctly observed that no evidence is required to be collected by the Police. Petitioner is aware of the identity of the accused persons/Respondents. He is in control and possession of the evidence against him. No fruitful purpose would be served to directed the investigations by the Police.

7. There is no infirmity in the Order of learned MM for dismissing the Application under Section 156(3) Cr.P.C. and Order dated 26.04.2025 of learned ASJ upholding the Order of learned MM. In any case, as has been observed, the Complaint under Section 200 Cr.P.C. is still pending and the Petitioner is at liberty to adduce evidence in accordance with law.



8. In view of aforesaid observations, present Petition along with pending Applications is dismissed.

OCTOBER 16, 2025/R

NEENA BANSAL KRISHNA, J.