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

+ CRL.M.C. 8509/2024, CRL.M.A. 32451/2024 & CRL.M.A. 32452/2024

MAHESH CHAND

.....Petitioner

Through: Mr. Kulbhushan Kataria and Ms.
Vandana, Advs.

versus

STATE GOVT. OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Ajay Vikram Singh, APP for
State with SI Virender PS Kamla Market

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

15.01.2025

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1. The present petition has been filed challenging impugned order dated 12.09.2023 passed by the learned ASJ-02, Central, Delhi whereby the revision filed by the present petitioner has been dismissed.
2. The revision was filed by the petitioner against the order dated 24.11.2022 passed by the learned Metropolitan Magistrate-03 Central, Tis Hazari Court, Delhi whereby the application of the petitioner under Section 156(3) CrPC was dismissed.
3. The learned Metropolitan Magistrate while dismissing the application of the petitioner has recorded a finding to the effect that entire evidence is either in possession of the complainant or the complainant can get the same summoned through the process of this Court and nothing new is to be collected for which the assistance of the police agency is required. It has



been further recorded that even the identity of the accused person is known to the complainant and the custodial interrogation of the alleged accused person is not necessary. The relevant para of the judgment of the learned Metropolitan Magistrate reads thus:

“After going through the complaint; and hearing the arguments, it is seen that the entire evidence is either in possession of the complainant or the complainant can get the same summons through (he process of this Court and nothing new is to be collected for which the assistance of the police agency is required. Even the identity of proposed accused persons is known. to the complainant as it is mentioned in "the complaint itself. Further, the custodial interrogation of alleged accused persons is not necessary and the facts of the case are not such that would warrant a detailed and complex investigation to be carried out by the State Agency.”

4. The challenge was taken by the petitioner to the Court of the Additional Sessions Judge-02, Central, Delhi by way of revision. However, the learned Revisional Court did not find any merit in the revision and dismissed the same observing as under:

“10. It is pertinent to note that the complainant and the respondent no.3 are real brothers while respondent no.2 is the son of respondent no.3. There is apparently a dispute over property between the parties. The allegations regarding the wrongful restraint and beating of complainant by respondent no.2 and 3 is within the knowledge and reach of the complainant. The MLC of the complainant reveals simple injuries which was got prepared by the complainant himself. As per the status report dated 29.09.2022, the complainant had not given his statement on the day of the incident and the written statement was given on the next date i.e. 14.03.2022. The local inquiry revealed the dispute over shops between the parties.

11. In these circumstances, all the evidence seems to be within



the reach of the complainant. No custodial interrogation is necessary. No recovery is to be effected. The identity of the proposed accused persons is also not in dispute. No evidence is to be collected by the police. As such, the intervention by the police is unnecessary in the facts and circumstances of the present case.”

5. The learned counsel appearing on behalf of the petitioner submits that in the status report the IO had mentioned that the case is made out under Section 323 IPC, however, the petitioner has not filed copy of such status report. Be that as it may, the offence under Section 323 IPC is a non-cognizable offence, therefore, no direction could be given under Section 156(3) CrPC for registration of FIR. The law is well settled that while exercising powers under section 156(3) CrPC and directing the registration of an FIR the Court needs to ensure that a cognizable offence is disclosed from the allegations mentioned in the application and the essential elements of the alleged offences thereof are *prima facie* satisfied.¹

6. Even otherwise, the learned Metropolitan Magistrate as well as learned Additional Sessions Judge, have recorded that complainant/petitioner and the respondents/proposed accused are closely related, therefore, the identity of the proposed accused is known to the complainant; the MLC is available with the complainant and the case does not require any detailed and complex investigation by the investigating agency; nor it is a case warranting any custodial interrogation or collection of evidence by the police. The learned counsel for the petitioner has failed to point out any infirmity in the findings so recorded by both the Courts.

7. In that view of the matter, this Court does not find any merit in the

¹ Madan Lal Suryawanshi v. State of NCT of Delhi: 2024 SCC OnLine Del 5815



present petition. Accordingly, the same alongwith pending applications, is dismissed.

VIKAS MAHAJAN, J

JANUARY 15, 2025
N.S. ASWAL