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

+ CRL.REV.P. 516/2011

AMIT DAHIYA

..... Petitioner

Through : Mr.B.S.Rana , Adv

versus

STATE NCT OF DELHI

..... Respondent

Through : Mr.Navin Sharma, APP for State

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

ORDER

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18.11.2011

Crl.M.A.18003/2011(Exemption)

Exemption is allowed subject to just exceptions.

Criminal M.A. stands disposed of.

Crl.Rev. P.516/2011 & Crl.M.A.18002/2011(stay)

1. Learned counsel for the petitioner submits in the present case, FIR No.25/2011 was registered on the statement of father of victim under Section 498A IPC only whereas charge under Section 498A/406/307 IPC has been framed by learned Trial Court against the petitioner.

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the digital data is as per the physical
file and no page is missing.

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2. Learned counsel for petitioner further submits that the victim was discharged from the hospital on the same day, however her statement was recorded by the police after a gap of five days from the date of alleged incident.

3. He further submitted that apart from the fact that victim has left the handwritten note in Hindi language which is Annexure D placed at page No.24 of the paper-book, the English translation of which is at page No.26, which reads as under:-

"Being fed up with my parents, my in-laws I am committing suicide."

4. Beside the above suicide note, learned counsel for petitioner has also referred to the opinion of the concerned Doctor on the MLC of the victim which is Annexure C from Dr.Baba Saheb Ambedkar Hospital, Rohini, Delhi – 110085 which reads as under:-

"The pattern of the ligature mark is consistent with hanging."

5. Learned counsel for the petitioner also submitted that the petitioner has filed a complaint case under Section 309 IPC against the victim and she has committed the offence, which is still pending adjudication before the

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Trial Court.

6. Additionally, learned counsel for the petitioner has also referred to the DD No.3A dated 17.01.2011 whereby the information had been given to the concerned police station that the victim had hanged herself. He further submitted that during the investigation, the police added the section 406/307 IPC.

7. Mr.Navin Sharma, learned APP on the other hand submits that the information vide DD No.3A was given by the petitioner, who is none else but the husband of the victim and answerable to the said episode, therefore, he deliberately transmitted this information only just to create false evidence in his favour, taking undue advantage of unconscious stage of the petitioner.

8. Further submitted that the information at the police station was given by the concerned doctor of Bhagwati hospital, which is a private hospital situated in Sector-13, Rohini, Delhi itself, however, the nearest government hospital is at a distance of just 1½ KM away i.e. Dr.Bhim Rao Ambedkar Hospital, Rohini, Delhi. He further submitted that the suicide note Annexure D has not been seized by the IO, therefore, it is not the part of the

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prosecution document, therefore, he cannot comment on this note.

9. Learned APP has relied upon State of Orissa v. Debendra Nath Padhi AIR 2005 SC 359 wherein it has been held as under:-

"23. As a result of aforesaid discussion, in our view, clearly the law is that at the time of framing charge of taking cognizance the accused has no right to produce any material. Satish Mehra's case holding that the trial Court has powers to consider even materials which accused may produce at the stage of Section 227 of the Code has not been correctly decided."

10. Learned counsel for the petitioner has stated that the petitioner has filed the complaint case under Section 309 IPC which is pending adjudication before the Trial Court and all his defence has been pleaded by him therein.

11. At this stage, learned counsel for the petitioner seeks to withdraw the instant petition with liberty to file appropriate application at the appropriate time.

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12. Liberty, as prayed by learned counsel for the petitioner, granted.
13. Dismissed as withdrawn.



SURESH KAIT, J

NOVEMBER 18, 2011

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