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

Judgment delivered on: 7th July, 2015

+ CRL.M.C. 137/2015

NEERA MAHAJAN @ NEERA MALIK Petitioner
Represented by: Mr. Medanshu Tripathi
and Mr. Satish Rana, Advs.

versus

THE STATE GOVT OF NCT OF DELHI
& ANR Respondents
Represented by: Mr. Ravi Nayak, APP for
State with SI Rakesh Kumar, PS-Dwarka
South.
Respondent no. 2 in person.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

+ **CRL.M.C. 137/2015**

1. Vide the present petition, petitioner seeks quashing of chargesheet in case FIR No. 90/2014 registered at PS-Dwarka (South) for the offences punishable under Sections 498A/406 IPC.
2. Further seeks quashing of impugned order dated 08.09.2014 passed by Id. MM, Dwarka Court whereby the cognizance in the chargesheet was taken and the petitioner was summoned.

3. Ld. Counsel appearing on behalf of the petitioner submits that initially accused no. 1 / son of the petitioner and the complainant selected each other for marriage. Their relations continued for six months and the marriage took place between them in Arya Samaj Mandir, Greater Kailash-I, thereafter.

4. Ld. Counsel further submits that complainant stayed with the petitioner in her matrimonial home only for a day. Thereafter, she left for her parental house and the son of the petitioner left for USA. There was no interaction between the petitioner and the complainant thereafter except through phone calls and e-mails. Therefore, the case registered against the petitioner under Sections 498A/406 IPC does not make out. Moreover, the petitioner has made a complaint against the IO of the case in the Police Vigilance Department. The Vigilance enquiry is still going on and the same is at the advance stage. If something comes against the IO then the FIR mentioned above will have no meaning in the present case.

5. The fact remains that initially FIR under Sections 498A/406 IPC was lodged against the petitioner and her son / accused no.1. During investigation, Section 417 IPC was also added. Accordingly, police filed the chargesheet and the same is pending for framing of the charges.

6. On perusal of the chargesheet, which is also a part of the judicial file, it is revealed that there are allegations against the petitioner that the complainant entrusted Articles to the petitioner,

which she has not returned to complainant till date. Accused no. 1/son of the petitioner was a divorcee and this fact was not disclosed either by the petitioner or her son. Moreover, the complainant was forced to share the bed with the brother of the petitioner. Petitioner herself has forced the complainant to leave the matrimonial house. Apart from that there are other allegations against the petitioner as well.

7. The Trial Court has to take cognizance on the basis of the documents filed in the chargesheet against a person and if a prima facie case is made out against such person, the Court takes cognizance. If no prima facie case is made out, then the Court has power to reject the chargesheet.

8. The Hon'ble Supreme Court in the case titled as ***Arun Bhandari v. State of UP and Ors. 2013 (2) SCC 801*** observed that Order of taking cognizance by lower Court against Accused shall not be quashed by High Court if prima facie case is made out against him.

9. In the present case, after looking into the documents on record, statement of witnesses, the Id. Trial Court vide order dated 08.09.2014 took cognizance and accordingly the case is pending for trial.

10. It is not in dispute that before the Trial Court, the case is fixed for arguments on charge. At this stage, this Court cannot conduct enquiry in the present case. Whatever, favourable material

the petitioner has, that may be brought to the notice of the Id. Trial Court at the time of arguing the case on charge. Therefore, whatever, plea petitioner wishes to take, she may take before the Trial Court. After hearing both the parties, trial court may discharge the petitioner or may frame the charge.

11. Keeping in view the allegations against the petitioner, I find no discrepancy in the order dated 08.09.2014 passed by Id. MM while taking cognizance in the aforesaid case.

12. Accordingly, the petition is dismissed.

Crl. M.A. 642/2015

Dismissed as infructuos.

SURESH KAIT, J

JULY 07, 2015

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