

\$~R-11

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

Date of Decision: January 07, 2015

+ **CRL.M.C. 297/2012**

SHIKHA MATHUR Petitioner
Through: Mr. S.K. Duggal and Mr. Vinod,
Advocates

versus

ANIL BAHADUR MATHUR & ANR. Respondents
Through: Mr. Sudarshan Rajan, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

Respondent's application under Section 156 (3) of Cr.P.C. for investigation of the offences under Sections 341/406 of IPC is allowed by trial court vide order of 2nd January, 2012.

Quashing of impugned order of 2nd January, 2012 is sought in this petition on merits.

At the hearing of this petition, learned counsel for petitioner had drawn the attention of this Court to an order of 22nd September, 2011 wherein the concerned Mahila Court had permitted respondent to inspect the premises in question alongwith a Protection Officer and thereafter, to

file a list of goods recovered. Attention of this Court was also drawn to the revisional court's order of 5th December, 2011 vide which respondent-husband was permitted to pick up all his clothes with mattress, quilts, etc., from the premises in question. According to learned counsel for petitioner, no case is made out for registration of FIR as petitioner was living in the premises in question by virtue of a stay order granted by a civil court and so, the offences alleged are not made out.

Learned counsel for respondent-husband submits that petitioner has lodged more than 20 cases against respondent and the articles as per the list (*Annexure P-3*) have not been returned and only few belongings have been returned and upon registration of FIR, the investigation has not progressed due to order dated 1st October, 2012 of this Court whereby the proceedings have been stayed.

Upon hearing and on perusal of the impugned order of 2nd January, 2012 and the afore-referred orders and the material on record, I find that after passing of the impugned order, there has been recovery of some articles by respondent-husband from the premises in question and petitioner is residing in the premises in question on account of a stay order by the civil court.

In the facts and circumstances of this case, this Court is of the considered opinion that registration of FIR is not warranted. Impugned order gives no reason nor does it disclose that a cognizable offence is made out and so, the impugned order is liable to be set aside.

Accordingly, this petition is allowed and the impugned order of 2nd January, 2012 is hereby quashed and respondent-husband is permitted to supplement/substitute his application under Section 156 (3) of Cr.P.C.

with a proper complaint for the offences in question, which shall be tried by the concerned court in accordance with the law.

Interim order of 24th May, 2012 is hereby vacated.

This petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 07, 2015

S