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

Date of Decision: April 23, 2015

+ **CRL.M.C. 5370/2014**
DILIP SINGH Petitioner
Through: Mr. Atul T. N., Advocate

versus

THE STATE (NCT OF DELHI) & ANRRespondents
Through: Mr.Navin Sharma, Additional
Public Prosecutor for respondent-
State with SI Roshan Lal

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Petitioner is facing trial in a dowry death case. During the pendency of FIR NO.161/2012 under Section 304-B of IPC and allied offences, petitioner had filed an application directing registration of FIR against parents of the deceased in the dowry death case. Petitioner's complaint was sent to the concerned SHO for appropriate action. Status report was received by the trial court wherein it was disclosed that no cognizable offence is made out. Accordingly, trial court's order of 15th February, 2013 had dismissed petitioner's complaint. Aggrieved of it, petitioner had filed a criminal revision petition, which also stands dismissed vide impugned order of 9th October, 2014.

At the hearing, learned counsel for petitioner had placed reliance upon Apex Court's decision in *Upkar Singh v. Ved Prakash and Ors.* JT 2004 (7) SC 488 to submit that registration of second FIR regarding the

same incident is permissible and in the face of petitioner's complaint (*Annexure-B*), a cognizable offence is clearly made out and so, rejection of petitioner's application is erroneous.

Learned Additional Public Prosecutor for respondent-State while supporting the impugned order had submitted that petitioner's complaint was just a pressure tactic to compel the parents of the deceased not to depose against petitioner at trial. It was submitted that however parents of the deceased have already deposed against petitioner and the recording of the prosecution evidence in the dowry death case is at fairly advanced stage.

Upon hearing and on perusal of the impugned order, Apex Court's decision in *Upkar Singh (supra)* and the material on record, I find that petitioner's complaint is infact his defence in the dowry death case for which registration of a separate FIR is unwarranted in the peculiar facts of this case. No doubt, registration of second FIR in respect of same incident is permissible, but in the peculiar facts of the case in hand, I find no justification for registration of second FIR as petitioner ought to lead evidence in his defence on the basis of his aforesaid complaint.

Finding no palpable error in the impugned order, this petition is dismissed with liberty to petitioner to lead evidence in defence while relying upon the complaint in question.

(SUNIL GAUR)
JUDGE

APRIL 23, 2015

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