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

Date of Decision: July 13, 2015

+ **CRL.M.C. 2732/2015 & Crl.M.As.9780-81/2015**

PAVAN KUMAR SHARMA Petitioner
Through: Mr. Haneef Mohd., Advocate

versus

GOVT OF NCT OF DELHI Respondent
Through: Ms. Nishi Jain, Additional Public
Prosecutor for State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Petitioner has been put on trial in FIR No.474/2006 for the offence under Sections 498-A/34 of IPC read with Sections 3/4 *the Dowry Prohibition Act* registered at P.S. Bhajanpura, Delhi by the trial court and the said order was unsuccessfully challenged by petitioner by filing a criminal revision petition, which stands dismissed vide impugned order of 2nd March, 2015.

At the hearing, learned counsel for petitioner had submitted that the marriage in question was a nullity and therefore, prosecution of petitioner for the aforesaid offences is erroneous. To contend so, reliance was placed upon decision of a co-ordinate Bench of this Court in *Mohit Gupta & Ors. v. State Govt of NCT of Delhi & Anr.* 2006 [3] JCC 1923.

Learned Additional Public Prosecutor for respondent-State had

supported the impugned order and had submitted that the marriage in question was not a nullity and a *prima facie* case is made out against petitioner and so, this petition deserves to be dismissed.

At the stage of trial, only prima facie case is to be seen. On this aspect, the pertinent observations of Apex Court in *Amit Kapoor v. Ramesh Chander and Another* (2012) 9 SCC 460 are as under: -

"At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at the stage."

Upon hearing and on perusal of the impugned order, trial court's order and the decision cited, I find that the marriage in question has not been declared a nullity under Section 5 of the *Hindu Marriage Act*. Therefore, reliance placed by learned counsel for petitioner upon decision in *Mohit Gupta (supra)* is misplaced. On the bare perusal of the FIR in question, a *prima facie* case for the offence in question is made out.

Consequently, finding no palpable error in the impugned order, this petition and the applications are dismissed while not commenting upon merits of this case lest it may prejudice petitioner at trial.

**(SUNIL GAUR)
JUDGE**

JULY 13, 2015

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