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IN THE HIGH COURT OF DELHI AT NEW DELHI

RESERVED ON : SEPTEMBER 24, 2015

DECIDED ON : NOVEMBER 30, 2015

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CRL.M.C. 3474/2015 & CRL.M.A.No.12409/15

AMIT MITTAL

..... Petitioner

Through : Mr.Deepak Vohra, Advocate.

versus

STATE (GNCT OF DELHI) & ANR

..... Respondents

Through : Mr.Sanjeev Sabharwal, APP with
SI Prateek Saxena, PS Anand
Vihar.

Mr.R.Venkat Raman, Advocate for
R2.

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CRL.M.C. 3469/2015 & CRL.M.A.No.12403/15

ATUL GUPTA

..... Petitioner

Through : Mr.Abhinav Agnihotri, Advocate.

versus

STATE (GNCT OF DELHI) & ANR

..... Respondents

Through : Mr.Sanjeev Sabharwal, APP with
SI Prateek Saxena, PS Anand
Vihar.

Mr.R.Venkat Raman, Advocate for
R2.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. The instant petitions under Section 482 Cr.P.C. have been preferred by the petitioners to challenge the legality and correctness of the procedure adopted by the learned Trial Court to frame charges against them vide order dated 18.08.2015. Prayer has been made to quash/set aside the entire proceedings undertaken by the Trial court in case FIR No.376/2012 under Sections 506/509/34 IPC registered at Police Station Anand Vihar on the Protest Petition filed by Respondent No.2 and to direct the Trial court to decide it (Protest Petition) first. Petitions are contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the file. The facts are not in dispute. Case FIR No.376/2012 Police Station Anand Vihar was registered on respondent No.2's complaint on 31.12.2012. Upon completion of investigations, a charge-sheet under Section 173 Cr.P.C. was filed against the petitioners for commission of offences punishable under Sections 506/509/34 IPC. The Trial Court vide order dated 26.04.2013 took cognizance and admitted the petitioners on regular bail.

3. It is a matter of record that respondent No.2 filed Protest Petition dated 21.08.2013 before the Trial Court on 02.09.2013 which was

taken up with the file on the date fixed i.e.24.10.2013. In the Protest Petition, the complainant/respondent No.2 alleged that the investigation carried out by the investigating agency was faulty and incomplete. The charges were not filed under proper offences/sections and all the perpetrators of the crime were not charge-sheeted. Prayer was made to direct the Investigating Officer to 'reinvestigate' the matter and file supplementary charge-sheet. The Protest Petition is contested by the petitioners.

Perusal of the Trial Court record reveals that the said Protest Petition has not yet been decided/disposed of. On various dates subsequent to the filing of the Protest Petition, certain inquiries were conducted; the Investigating Officers were summoned and their statements were recorded; Principal of the institute (Ideal Institute of Management and Technology) was summoned and directed to place on record the layout plan of CCTV cameras installed in the institute. Without taking any view on the Protest Petition, the Trial Court framed charges against the petitioners vide order dated 18.08.2015. By the said order, objections taken by the complainant were noted separately and the concerned SHO was directed to file reply/response to them.

4. Apparently, the procedure adopted by the Trial Court to proceed on merits with the trial after framing charge while keeping the Protest Petition pending is not permissible. The Trial Court before framing the charge in question must have decided/disposed of the Protest Petition on merits. Any order on Protest Petition would have impact on merits of the case. Petitioners' prayer to direct the Trial Court to dispose of the respondent No.2's Protest Petition first has merits.

5. In view of the above, without delving into controversies raised in the instant petitions, the Trial Court is directed to dispose of Respondent No.2's Protest Petition first and not to proceed with the trial till then. The parties will be at liberty to avail legal remedies available to them after disposal of the Protest Petition on merits.

6. The Petitions filed by the petitioners stand disposed of in the above terms. Trial Court record be sent back forthwith along with the copy of the order.

(S.P.GARG)
JUDGE

NOVEMBER 30, 2015

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