

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

Date of Decision: September 16<sup>th</sup>, 2016

+ **CRL.M.C. 754/2014**

**PREM SINGH**

..... Petitioner

Through Mr.G.P. Singh, Advocate. with  
Mr.M.R. Singh, Adv.

versus

**STATE & ORS**

..... Respondents

Through Ms.Meenakshi Chauhan, APP for the  
State with SI Manoj Singh, PS  
Mehrauli.  
Mr.Aditya Gaur, Advocate for R-2 & 3

**CORAM:  
HON'BLE MR. JUSTICE P.S.TEJI**

**P.S.TEJI, J.**

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure (hereinafter shall be referred as Cr.P.C.) for setting aside the order dated 16.12.2013 passed by the learned Additional Sessions Judge, Saket Court, New Delhi vide which the respondent no.2-Manjeet and respondent no.3-Mishro Devi have been discharged in a revision petition.

2. Facts, in brief, are that the marriage of respondent no.2-Manjeet and Rekha, daughter of the petitioner/complainant was solemnized on 17.02.2002. Rekha died in unnatural circumstances on 02.10.2003. On the basis of complaint made by the petitioner,

FIR No.474/2003 under Sections 304B/498A/34 IPC was registered against the respondent nos.2 & 3 and two other co-accused, namely, Sharda @ Babu and Poonam. Respondent nos.2 and 3 were convicted after conclusion of trial in the said case. In the meanwhile the petitioner-herein filed a complaint under Section 200 Cr.P.C. for commission of offence under Section 406 IPC. The said complaint was resulted into an FIR No.869/2006 under Section 406/34 IPC, Police Station Mehrauli. Vide order dated 29.01.2013, the learned Metropolitan Magistrate ordered to frame charge against the respondent nos.2 and 3 under Section 406/34 IPC.

3. Against the framing of charge, the respondents/accused persons, namely, Manjeet and Smt.Mishro Devi filed a revision petition which was allowed by the Court below vide order dated 16.12.2013 and discharged them for the offence under Section 406/34 IPC. Feeling aggrieved by the order dated 16.12.2013, the present petition has been filed by the petitioner/complainant.

4. Arguments advanced by the counsel for the parties were heard.

5. Argument advanced by the counsel for the petitioner is that the statements of witnesses duly established the demand of istridhan articles which was misappropriated by the accused persons. It was further argued that the offence was not barred by limitation as the offences were continuing in nature. There is sufficient material against the accused persons and they were wrongly discharged by the Court below.

6. On the other hand, counsel for the respondent nos.2 and 3 has argued that the complainant was not authorized to make complaint against the accused persons as he is not the successor of the deceased. There was no material on record to show that there was any entrustment of any article of the complainant with the accused persons which could have been alleged to be misappropriated. In the absence of any such material, no charge was liable to be framed and thus the accused persons were rightly discharged by the Court below. It was further argued that the FIR registered was barred by limitation.

7. To appreciate the rival contentions, this Court has gone through the record. It is an admitted fact that the death of the deceased Rekha had taken place on 02.10.2003. Earlier FIR under Section 304B/498A/34 IPC was registered on 02.10.2003, whereas the FIR of the instant case was registered on 05.12.2006.

8. Section 468 Cr.P.C. provides for a bar in taking cognizance after lapse of the period of limitation. It provides that no Court shall take cognizance of an offence after the expiry of the period of limitation. As per clause (c) of sub-section (2) of Section 468 Cr.P.C., the period of limitation provides is three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. In the present case, the offence complained against the respondent nos.2 and 3 is 406 IPC for which the maximum imprisonment provided is three years.

9. It is apparent from the record that the FIR registered in the instant case was barred by limitation as the death of deceased

Rekha had taken place on 02.10.2003 and the FIR was registered on 05.12.2006 clearly beyond the period of limitation. It is worthwhile to note that the earlier FIR No.474/2003 was registered on 02.10.2003. The allegations contained in the said FIR were of dowry death and cruelty and harassment meted out to the deceased on account of demand of dowry. Thereafter the complaint under Section 200 Cr.P.C. for offence under Section 406 IPC was filed by the complainant/petitioner-herein which resulted into the registration of FIR of the instant case. No explanation has been given by the petitioner/complainant as to why he kept silence at the time of getting the FIR No.474/2003 registered with regard to allegations under Section 406 IPC. Another important aspect of the matter is that the respondent nos.2 and 3 have already been convicted after conclusion of trial of FIR No.474/2003 under Section 304B/498A/34 IPC.

10. In view of the facts and circumstances discussed above, this Court is of the considered opinion that there is no illegality or infirmity in the order dated 16.12.2013 passed by the Court below. Consequently, the present petition is dismissed.

**(P.S.TEJI)**  
**JUDGE**

**SEPTEMBER 16, 2016**  
**dd**