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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 976/2013

RAJENDER KUMAR & ORS.

..... Petitioner

Through: Mr.H.C.Mittal, Adv.

versus

SANJEEV BANSAL

..... Respondent

Through: Mr.S.C.Singhal, Adv.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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12.05.2016

The present petition has been filed under Section 482 Cr.P.C. to set aside the orders dated 30.07.2011 and 07.02.2012 passed by the Trial Court and order dated 22.11.2012 passed by the learned ASJ vide Complaint Case No.123/1/04 (PS: Janak Puri), under Sections: 323/506/34 IPC.

The learned counsel for the petitioner has submitted that the learned MM has summoned the petitioners along with two other persons, who are since deceased.

It was demonstrated in the Court during the arguments that undisputedly the complainant was not examined in the present case particularly when the allegations are of causing hurt and criminal intimidation to the complainant. The only evidence produced before

the learned MM was the medical record of the injured.

A perusal of the file further shows that on 30.07.2011, when the impugned order was passed, even the complainant was not present. It is also recorded that no witness was present. The case was at that stage of recording of pre-summoning evidence and statements of CW-1 to CW-4, apart from complainant, had already been recorded. In such a scenario, undisputedly, the Court of learned MM committed an error while summoning the petitioners in the middle of recording of evidence.

In the given facts and circumstances, this Court is of the considered opinion that let the summoning order dated 30.07.2011 be set aside and the learned MM be directed to proceed with the complaint in accordance with law.

Ordered accordingly.

The Trial Court Record be sent back along with a copy of the order.

Let the complainant appear before the court below on 11.07.2016.

P.S.TEJI, J

MAY 12, 2016/dm