

\$~24

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

Judgment delivered on: 09th February, 2016

+ **CRL.M.C. No.942/2013**

SARITA

..... Petitioner

Represented by: Mr.Davender Kumar, Adv

Versus

STATE NCT OF DELHI & ORS.

..... Respondents

Represented by: Mr.Arun Kumar Sharma,
APP for the State.
Mr.Anil Hooda & Mr.Ankit
Gupta, Advs for R2 to R7.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner assails the order dated 07.06.2012 passed by learned Trial Court in Criminal Complaint Case No.96/1/2009 and order dated 07.02.2013 passed in Criminal Revision No.48/2012 by learned Additional Sessions Judge thereby dismissing the complaint and revision petition filed by her.

2. Initially, the petitioner had instituted a Criminal Complaint Case under Section 200 Cr P C on the allegations that petitioner got married with Jasvinder Singh/ respondent No.2 on 25.11.2007 after procuring divorce in 'Gram Panchyat' from her earlier husband namely Sudhir. After some time, petitioner came to know that her husband / respondent No.2 was already married and was having one daughter and his earlier

wife had filed various litigations against respondent Nos.2 to 7.

3. It is further alleged that respondent No.2 in connivance with remaining accused persons committed the offence punishable under Sections 420/494/495/506/120B/34 of the IPC. To support her case, petitioner examined herself as CW1; CW2 Rajbir Singh; and CW3 Hari Chand Saroha. Learned Trial Court has also conducted enquiry under Section 201 of the Cr PC and called the report from the police station concerned.

4. In the said enquiry report, it is reported that father of the petitioner had assured respondent No.2 that he can arrange a government job for him in Delhi Police as sub inspector and after said assurance, respondent No.2 had paid an amount of Rs.19,00,000/- to the father of petitioner. Since, the father of the petitioner could not procure the said post of sub inspector in Delhi Police and also failed to return the amount, therefore, respondent No.4, father of respondent No.2 filed a complaint before City Police Station, Karnal, Haryana which culminated into registration of FIR No.499/2009 for the offences punishable under Sections 420/406/506 / 323/120B of the IPC.

5. Admittedly the complaint under Section 200 Cr P C filed by the petitioner herein after lodging of the aforesaid case against her father. Accordingly, learned Trial Court opined that just to put pressure upon respondents and save her father, petitioner had filed the complaint case against respondent Nos.2 to 7 herein Delhi. Thus, learned Trial Court after relying upon the facts and enquiry report noted above, dismissed the complaint of petitioner.

6. Being aggrieved therefrom, petitioner challenged the same in Criminal Revision No.48/2012 and the same was also dismissed by learned Revisional Court by recording that learned Trial Court has rightly gone through the status report and case against father of petitioner.

7. Learned counsel for appearing on behalf of petitioner submits that learned Trial Court was bound to consider the evidence adduced by petitioner and upon considering the evidence the complaint was to be dismissed or allowed and summoned the respondent Nos.2 to 7. But, both the Courts below ignored the evidence and considered the case registered against the father of petitioner, while dismissing her case in both rounds of litigation.

8. Learned counsel further submits that father of the petitioner has been acquitted in the aforementioned case FIR vide order dated 02.07.2005 by learned Judicial Magistrate First Class, Karnal.

9. As informed by learned counsel for respondent Nos.2 to 7 that the acquittal of father of petitioner is under challenge in Criminal Appeal No.227/2015 before learned Appellate Court and the State has also challenged the acquittal order vide Criminal Appeal No.477/2015 before the Appellate Court.

10. Be that as it may be. The fact remains that petitioner instituted the criminal case under Section 200 Cr PC only after the lodging of the case by respondent No.2 against father of petitioner which culminated into registration of FIR in City Police Station, Karnal, as noted above.

11. The petitioner instituted the aforementioned case on the allegations

that the respondent nos. 2 to 7 had not disclosed that respondent no. 2 was already married and having daughter. However, it is admitted fact that the marriage of the petitioner was also a second marriage and she had not taken divorce from earlier husband from the Court of law.

12. In the facts of the case, both learned Trial Court as well learned Revisional Court have consistently opined that complaint case under Section 200 Cr P C instituted by petitioner is nothing but a counter blast of afore noted case which was pending against her father at Karnal.

13. In view of above recorded facts, I find no discrepancy in the concurrent finding of two Courts below. Therefore, finding no merits in the instant petition, same is accordingly rejected.

14. TCR be remitted forthwith.

**SURESH KAIT
(JUDGE)**

FEBRUARY 09, 2016

M/jg