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

+ CRL.M.C. 935/2016

LEIKHITA TANDON

..... Petitioner

Represented by: Mr. Aditya Vikram and Mr. Hari  
Narayan Takkar, Advs.

versus

STATE

..... Respondent

Represented by: Mr. Panna Lal Sharma, APP for  
State.

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KAIT**

**ORDER**

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**04.03.2016**

1. By way of the present petition filed under Section 482 Cr.P.C., petitioner seeks directions thereby setting aside order dated 05.02.2016 passed by Id. CMM (West) in M-3/2016 whereby an application under Section 410 (2) Cr.P.C. seeking transfer of the complaint case bearing no. CC-38/1/2013 from the Court of Ms. Saumya Chauhan, Id. Metropolitan Magistrate-07 (West) has been dismissed.

2. Ld. Counsel appearing on behalf of the petitioner submits that the vide order dated 22.01.2015, Id. CMM recorded as under:

*“7. The complainant has made a number of allegations against her husband and in-laws. However, on the very face of it, it appears that all the allegations are merely bald allegations and are superfluous in nature. It is apparent that the present complaint has been filed by the complainant with a mala-fide intention to harass the accused and her in-laws to settle scores.*

*It has been admitted by the complainant that she has filed a petition under Section 9 of the Hindu Marriage Act, while her husband has filed a petition for divorce. Hence, it is more than clear that matrimonial dispute is going on between the parties. Hence, the allegations of sexual assault and marriage on basis of fraud or misrepresentation appears to be only an after-thought by the complainant, made with a view to harass the accused.*

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9. *Hence, the Court is of the view that no offence under Section 376/420/406/413 IPC is made out against the accused persons. Also, the allegations of threat appears to be bald as the complainant has only mentioned certain numbers from which she had received a call. She has not mentioned any date or time of such calls, nor has she mentioned about the words uttered by the accused to threaten her. Hence, court is of the view that the complainant was under no such threat and no offence under Section 506 is made out."*

3. Ld. Counsel submits that learned Trial Court is sitting with a pre-judged mind regarding merits of the case and will be under influence by the findings as opined in the earlier order dated 22.01.2015.

4. It is not in dispute that the order dated 22.01.2015 has been set aside by the Revisional Court vide order dated 07.12.2015, thereby directing the ld. Metropolitan Magistrate to decide afresh on the complaint in the light of the evidence which has come on record.

5. In view of above, I find no discrepancy in the order dated 05.02.2016.

6. Accordingly, the petition is dismissed.

7. However, I hereby make it clear that Id. MM shall not get influenced by the observations made in the earlier order dated 22.01.2015.

**SURESH KAIT, J**

**MARCH 04, 2016**

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