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

+ CRL.REV.P. 238/2016

SUKHJEET SINGH

..... Petitioner

Through: Mr.R.K.Sonkiya, Adv.

versus

THE STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr.G.M.Farooqui, APP.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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03.08.2016

1. The present petition has been filed under Sections 397/482 Cr.P.C. for setting aside the order dated 22.02.2016 and 29.02.2016 in Case No.9/16 registered under Section 3(X) of the SC/ST Act.
2. A complaint under Section 190 and 200 Cr.P.C. for registration of a case (FIR) for the offences punishable under Section 3(10) of the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the said Act' for short) was filed by the petitioner wherein he stated he is working as a Junior Operator with Air India where the respondent No.2 is a senior officer of the petitioner in the same department and is posted as DGM. That on 17.08.2011, he

approached the respondent No.2 to get his interline ticket signed which the respondent No.2 not only declined but also tore the form and subjected the petitioner to racist remarks as narrated in the complaint. It is alleged that the respondent No.2 threatened the petitioner/complainant that by using his power he will not let him go abroad and further said that since he could not do anything earlier, then what he could do now and subjected the petitioner to some further sarcastic words. In this regard the petitioner lodged a complaint with the GM (Personnel), Air India, but to no avail. Whereafter the petitioner/complainant filed a complaint with the concerned SHO on 19.12.2011, but no response could be elicited. Thereafter the complainant filed the complaint in question with ACMM, Dwarka Courts, New Delhi on 13.04.2012.

3. Based on the complaint, action taken report was sought, pre-summoning evidence was led and the respondent No.2 was summoned. On the appearance of respondent No.2, the ACMM committed the case to the designated court which could exclusively try the offences under the said Act. The case came up before the ASJ on 22.02.2016 when the petitioner submitted that this is a warrants

trial case and pre charge evidence should be recorded first, instead the court listed the matter for argument on charge on 29.02.2016. Again on the said date, the petitioner raised the same plea that this is a warrants trial case and procedure under Sections 244 to 248 Cr.P.C. should be followed which stipulates for recording of pre charge evidence in cases instituted otherwise than on police report. An application moved in this regard was rejected vide order dated 29.02.2016 and the learned ASJ proceeded to frame charge against respondent No.2 observing that the said procedure is to be adopted to the proceedings in a court trial of warrant cases by Magistrate and that the same is not applicable to the proceedings in a sessions trial case.

4. The grounds raised by the learned counsel for the petitioner in the present petition are that the learned Judge has passed the impugned order without applying his judicial mind and giving proper opportunity to the petitioner to place his contention before the court and arbitrarily passed the impugned orders; that the learned ASJ without considering the facts that the petitioner had done his duty and had been trying to adopt the procedure of law, had passed the impugned order and compelled the petitioner to approach this Court;

that the learned ASJ failed to appreciate that the special/designated court is constituted under the special provision of law and the learned Judge enjoys all the powers which a court of original jurisdiction enjoys and that the learned ASJ failed to consider the provisions for trial of warrant cases by Sessions Court when the Sessions Judge is enjoying the power of magistrate.

5. In support of his case, the learned counsel for the petitioner has relied upon the judgments in A.R.Antulay v. R.S.Nayak; AIR 1984 SC 718 and Bagavathiappan Pillai v. State by Inspector of Police Vigilance and Anti Corruption Nagercoil, Kanyakumari District & Anr.

6. I have heard the learned counsel for the parties and gone the impugned orders and I am of the considered opinion that based on the complaint of the petitioner, the learned Spl Judge has framed the charge and put the judicial mechanism into motion for conducting trial on the basis of the charge framed and thus no prejudice is being caused to the petitioner and as for the plea of the petitioner that procedure under Chapter XIX of Cr.P.C. is applicable to the present complaint, the learned Spl.Judge has dealt with the issue in the

impugned order dated 29.02.2016 to the effect that the same is not applicable to the proceedings in a court of session. This Court in the present petition under Section 482 Cr.P.C. does not find any ground to interfere with the impugned orders and the procedure adopted by the court below. Also, the judgments relied upon by the learned counsel for the petitioner do not render any assistance to the petitioner.

7. The present petition is accordingly dismissed.

P.S.TEJI, J

AUGUST 03, 2016/dm