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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1022/2015 & CrI. MA 5372/2015
GAYATRI DEVI

..... Petitioner

Through: Mr Suraj Rathi and Mr Rajiv Singh Pania,
Adv.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr Ashok Kumar Garg, Additonal Public
Prosecutor for the State alongwith Sub
Inspector Bijender Singh Police Station
Karol Bagh, New Delhi
Mr Ram Krishna and Mr Ratnesh Deo, Adv.
for the respondent nos. 2 to 7.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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13.01.2016

This is a petition under Section 482 Cr.PC moved by the petitioner for setting aside the orders dated 13.02.2015 passed in Criminal Revision No.45/15 by learned Additional Sessions Judge and 14.01.2015 passed by the learned Metropolitan Magistrate whereby notice was ordered to be issued to the accused persons (respondent nos. 2 to 7) on the application under Section 173 (8) Cr.PC moved by the petitioner / complainant for further investigation.

The factual matrix of the case leading to filing of the present petition are that on 06.06.2013 at about 9 am complainant was watering the plants outside her house. Bhoop Singh and his two sons – Gaurav and Sanjeev who were residing in the opposite house caught hold of her and started dragging and misbehaving with her. When she raised alarm her brother Naresh, her mother Savitri and her sister Rajni rescued her. On this Bhoop Singh and his wife Chitralkha, his sons Gaurav and Sanjeev and their uncle Prithviraj all entered in her house and attacked them with bat and hammer and threatened to kill. In the said attack, nose of her brother Naresh and hand of her mother were fractured for which operation was conducted. On the basis of this statement an FIR under Sections 452/354/323/34 IPC was registered. After completing investigation, charge-sheet was filed under Section 452/323/354/325/34 IPC against Prithivraj, Chitralkha and

Bhoop Singh. However, Sanjeev and Gaurav were kept in column number 12. Thereafter, an application under Section 173(8) Code of Criminal Procedure, 1973 was moved by the complainant seeking directions to some independent agency for further investigation in the matter. Learned Magistrate directed the complainant to supply copy of the application to the accused persons. The accused persons also moved an application seeking their discharge. The application moved by the complainant seeking preponment of hearing on the ground that the accused has no right to be heard on an application under Section 173(8) Cr.PC in view of the mandate of the Hon'ble Supreme Court in ***Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanadha Maharaj v. State of A.P. & Ors.***, (1999) 5 SCC 740 was, however, dismissed. Thereafter, a revision petition was preferred by the complainant which was dismissed by the Special Judge on the ground that the Trial Court has not so far disposed of the application as such it would be open to the petitioner to raise her grievance before the Trial Court.

I find no infirmity in the order passed by learned Additional Sessions Judge as the petitioner may make all necessary submission before the learned Metropolitan Magistrate who will consider the same in accordance with law.

It is submitted by counsel for the respondent nos. 2 to 7 that an application for discharge is also pending consideration before the learned MM and arguments have already been heard.

That application will also be considered by the learned MM in accordance with law.

The petition stands disposed of in terms of this order.

Pending application also stand disposed of.

A copy of this order be given *dasti* to counsel for the parties.

SUNITA GUPTA, J

JANUARY 13, 2016/rd