

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

+ CRL.M.C. 4154/2013

Date of Decision : January 28th, 2016

NITIN KHURANA & ANR.

..... Petitioners

Through Mr.K.K. Manan, Sr. Adv. with
Mr.Ankush Narang & Ms.Nandini
Nagpal, Advs.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through Ms.Manjeet Arya, APP for the State.
Mr.Dinesh Garg, Adv. with R-2 in
person.

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

P.S.TEJI, J.

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the “Cr.P.C.”) has been filed by the petitioners, namely, Nitin Khurana and Pinki Khurana for quashing the summoning order dated 20.02.2013 passed by the learned Metropolitan Magistrate, Karkardooma Courts, Delhi in FIR No.356/2007, under Sections 498A/406/34 IPC, Police Station

Geeta Colony.

2. Factual matrix, emerges from the record, is that a complaint in writing was filed by the complainant-Kajal to the police. In her complaint, the complainant alleged that she was being harassed and tortured by her husband Sachin Khurana and her in-laws. She specifically leveled allegations against her husband and in-laws regarding beating, cruelty and harassment for or in connection with demand of dowry. She further alleged that money was demanded by her husband and in-laws for purchasing a flat and that the complainant was left at her parental home.

3. On the basis of complaint of the complainant, FIR in question was registered. After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The accused-husband Sachin Khurana was sent for trial, whereas the remaining co-accused persons including the petitioners-herein were kept in column no.12. The learned MM took cognizance of the offences and arguments on charge were heard. Vide impugned order dated 20.02.2013, learned MM observed that there were allegations against Pinki i.e. mother-in-law and Nitin i.e. brother-in-law also apart from accused husband and

therefore, summoned the petitioners-herein. Feeling aggrieved by the same, the present petition has been preferred by the petitioners.

4. Arguments advanced by the learned senior counsel for the petitioners, learned counsel for the complainant as well as learned Additional Public Prosecutor for the State have been heard.

5. The argument advanced by the learned counsel for the petitioners is that both the petitioners were living separately in Haryana and the complainant was living with her husband in a rented accommodation in Delhi at the time of filing the complaint. The said fact has also been verified by the Investigating Officer which came in the order dated 27.10.2010, but despite the same, the learned MM summoned the petitioners-herein. Further argument advanced is that there is no specific allegation against the petitioners as no date and time has been mentioned in the complaint. It is further argued that the cognizance against the husband was taken on 27.10.2010. Between taking the cognizance against the husband and the petitioners-herein, there was no stage under Section 319 Cr.P.C. to summon the petitioners-herein. It is further argued that the impugned order is a non-speaking order as no evidence or material has been referred by

the learned MM in summoning order.

6. In support of the contentions raised, learned counsel has relied upon judgment in case of ***Satish Rana v. Central Bureau of Investigation, 2011 (185) DLT 200*** in which it was observed that the learned CMM had failed to refer to any evidence or material specifically which persuaded him to take cognizance against the petitioners and that the said order was a non-speaking order.

7. Perusal of record shows that the petitioners, namely, Nitin Khurana and Pinki Khurana were kept in column no.12 of the report filed by the police under Section 173 Cr.P.C. The report under Section 173 Cr.P.C. shows that apart from co-accused Sachin Khurana, there are specific allegations against petitioners-herein regarding demand of dowry by them from the complainant. It is specifically alleged that the mother-in-law taunted the complainant that they were cheated and only Rs.2 lacs were given in the marriage; that full amount of Rs.5 lacs was not given and that gold sets as agreed had also not been given. It is further alleged that mother-in-law, brother-in-law Nitin and other accused pressurized the complainant to ask her parents to arrange a flat for them in Delhi. It is

further alleged that on 26.04.2006, mother-in-law of the complainant asked her to leave the jewellery and clothes and to take them along with her only when her parents meet the demand of flat. On 06.06.2006, the mother-in-law of the complainant demanded water purifier from the mother of the complainant.

8. Perusal of record clearly shows that there are specific allegations against the petitioners-herein to the effect that they harassed the complainant for or in connection with demand of dowry. The learned Metropolitan Magistrate has taken cognizance of the offences against the petitioners under Section 190 Cr.P.C. as it is apparent that there was sufficient material before the learned MM for taking the cognizance. The contention of the learned counsel for the petitioners that provision of Section 319 Cr.P.C. has not been applied by the learned MM, is without any basis inasmuch as the learned MM was having jurisdiction to summon the petitioners after taking cognizance under Section 190 Cr.P.C. Thus, the petitioners cannot get any assistance from the judgment in the case of **Satish Rana** (supra).

9. In view of the above discussion, there is no illegality or

infirmity in the order dated 20.02.2013 passed by the learned Metropolitan Magistrate. Neither any abuse to the process of law nor any failure of justice has been demonstrated. This Court is of the considered opinion that no interference is warranted in the present case under Section 482 of Cr.P.C.

10. The petition is accordingly dismissed.

(P.S.TEJI)
JUDGE

JANUARY 28, 2016
dd