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

+ **CRL.M.C. 3358/2016**

RAJENDRA KUMAR GOEL & ANR. Petitioners

Represented by: Mr. Dushyant Swaroop,
Advocate.

versus

STATE & ANR. Respondents

Represented by: Mr. Ravi Nayak, APP for the
State with ASI Shri Ram, PS
Hari Nagar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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14.09.2016

Crl. M.A. No. 14233/2016 (Exemption)

Allowed, subject to all just exceptions.

Crl. M.A. No. 14234/2016 (Delay in refiling)

For the reasons stated in the application 43 days delay in refiling the petition is condoned.

Application is disposed of.

CRL.M.C. 3358/2016 and Crl. M.A. No. 14232/2016 (Stay)

1. Charge sheet for offence punishable under Sections 498A/406 IPC in case FIR No.524/2011 registered at PS Hari Nagar, Delhi on the complaint of respondent No.2 was filed against the petitioners besides their son.

2. The petitioners are aggrieved by the order dated 6th August, 2015 passed by the learned Metropolitan Magistrate dismissing the application

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filed by the petitioners seeking directions for further investigation and the order dated 9th May, 2016 passed by the learned Additional Sessions Judge dismissing the revision petition of the petitioners.

3. Learned counsel for the petitioners contends that the petitioners after filing of the FIR sought quashing of the same in CrI. M.C. No. 2177/2015 whereby this Court after some arguments permitted them to withdraw the petition with liberty to the petitioners to urge the pleas taken in the petition before the learned Trial Court by way of an application and directing that as and when any such application was filed, the learned Trial Court was expected to deal with it in accordance with law and pass a speaking order therein preferably within eight weeks from the filing of such application. The petitioners filed an application alleging that the investigating agency have suppressed and concealed material facts, destroyed the relevant evidence and have illegally framed the petitioners and their family. It was further stated that the younger son of the petitioners had filed an application under Section 156 (3) Cr.P.C. seeking registration of the FIR against the then SHO and the Investigating Officer. In the application it was submitted that the educational certificates of Jyoti were fake and forged and that she had purchased her education certificates. The petitioners also sought investigation into the relationship of Jyoti with one Pradeep Deb with whom she was allegedly in constant touch from first day of the marriage. The petitioners further wanted investigation with regard to the relationship of Jyoti with Sanjay Malhan with whom it is alleged that she conspired to extort money from the petitioners. It was further claimed that during the course of investigation the complainant neither provided any documentary

evidence of physical torture nor the source of expenditure incurred on marriage.

4. Vide the order dated 6th August, 2015 the learned Metropolitan Magistrate noted that the parties are admittedly embroiled in the matrimonial litigation. The learned Metropolitan Magistrate also noted that a report was called from the Investigation Officer regarding further investigation who filed a report stating that pursuant to recommendation by CAW Cell the above noted FIR was registered and during the course of investigation jewellery bills, bank statement etc. were produced by the complainant which were seized. The learned Trial Court also noted that as per Section 173 (8) Cr.P.C. it was the prerogative of the investigating agency to conduct further investigation. A charge sheet is a conclusion that the Investigating Officer draws on the basis of the material collected during investigating relating to trial of the accused. The facts relating to the educational background of the complainant have no bearing to her allegations of cruelty or harassment of dowry demand committed by the petitioners. Further the statement of account of complainant's bank and bill of purchase etc. were already placed on record and thus no case for further investigation was made out. It is also noted that for the offence of cheating made out against the complainant, specific complaint can be made by the petitioners to the concerned authority.

5. The learned Revisional Court vide the impugned order found no ground for interfering with the order of the learned Metropolitan Magistrate.

6. Before this Court again learned counsel for the petitioners reiterates lack of collection of evidence which is in the form of educational certificates

of the complainant etc. and non-collection of corroborative evidence of physical torture and dowry demanded/given. As noted by the learned Metropolitan Magistrate the documents received during investigation are on record with the charge sheet in the form of bills of purchase of the jewellery and statement of bank account of the complainant. Further as regards the complainant/ respondent No.2 using fake certificates are concerned, the same cannot be made a part of the investigation in relation to her complaint of harassment for demand of dowry and criminal breach of trust. As noted by the learned Metropolitan Magistrate, in case the petitioners have been cheated they would be at liberty to take remedies in accordance with law and cannot seek nullifying of the charge sheet filed against them for offences punishable under Sections 498A/406 IPC on that count and seek further investigation on their allegations.

7. Finding no infirmity in the two orders, the petition and the application are dismissed.

MUKTA GUPTA, J.

SEPTEMBER 14, 2016
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