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

+ **CRL.M.C. 3181/2016**

DIVYA MITTAL

..... Petitioner

Represented by: Mr. Rajat Wadhwa, Ms. Honey Jain, Mr. Himanshu Nailwal, Advs.

versus

STATE & ANR.

..... Respondent

Represented by: Mr. Ravi Nayak, APP.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

02.09.2016

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CrI.M.A. 13608/2016

Exemption allowed subject to just exceptions.

CRL.M.C. 3181/2016 & CrI.M.A. 13607/2016 (stay)

1. The petitioner is the complainant in case FIR No.66/12 under Section 498A/406/34 IPC registered at PS Anand Vihar against Ankur Mittal the husband, Praveen Mittal the mother-in-law, Vineet Mittal the father-in-law. Vide order 22nd September, 2014 the learned Trial Court discharged all the three accused persons for offence punishable under Section 498A IPC but framed charge for offence punishable under Section 406/34 IPC.
2. Challenging the order dated 22nd September, 2014 a revision petition was filed by Ankur Mittal, Praveen Mittal and Vineet Mittal before the learned Additional Sessions Judge. Vide the impugned order dated 30th May, 2015 charge for offence punishable under Section 406 IPC was set

aside qua Ankur Mittal but maintained qua Praveen Mittal and Vinnet Mittal. Hence the present petition by the petitioner/ complainant challenging the discharge of Ankur Mittal for offence punishable under Section 406 IPC.

3. Learned counsel for the petitioner contends that there are specific allegations of breach of trust against respondent No.2 besides the fact that vide seizure memo dated 6th July, 2012 recovery of istridhan articles was made from the respondent No.2.

4. The contents of the FIR lodged by the petitioner/ complainant are:

“To, the D.C.P., Crime Against Women Cell, Krishan Nagar, Delhi. Sir, the marriage of applicant Smt. Divya Mittal W/o Sh. Ankur Mittal, R/o H.No.2, Shrestha Vihar, Delhi was solemnized with Ankur Mittal on 28.11.2004 as per the demand of in-laws at Abhinav Farm Mehrauli, New Delhi according to Hindu Rites and Customs. My parents and relatives had spent about ₹15 lakhs in the marriage but my in-laws were not happy with this marriage and they used to say that despite of such a good boy, the marriage has not been performed according to our status. That the behaviour of all in-laws was fine towards me till the time the relatives stayed in house but after some days the behaviour of all these persons became rude and harsh towards me. My mother-in-law took my entire jewellery under her custody which was given to me by my parents and by my in-laws and sometimes on demanding it was given to me to wear but was taken back after the function. These all persons started harassing me in different ways. My mother-in-law Smt. Praveen Mittal did not allow me to enter the kitchen and she used to quarrel with me on trivial matters. She used to instigate my husband and father-in-law to abuse and beat me. Moreover, these people deliberately put my bed in open hall where all persons used to visit. When I requested to my husband, mother-in-law and father-in-law to put my bed in my room then they stated that if you want to live in this house then you have to live like this only otherwise tell your father to get

you a separate house. The behaviour of these persons was also not good towards my daughter. They used to put headphone in her ears and used to play the music in loud volume due to which she stopped hearing. They did not use to cut the hair of my child and once when I came back from my parental home, my father got her hairs set. When I had returned to my matrimonial home at 9 PM, my father-in-law started quarrelling with me after looking at the hair of my daughter and abused me in filthy language and out of anger he got her hair shaved at that very moment. He started forcing me to go out of the house but I somehow compromised with circumstances and ignored his cruel behaviour. After three-four months of marriage, these persons telephoned my father and used bad words for him and also told him to take me with him immediately. My father said that he will take me in the morning. But these three persons continued to misbehave and around 12 AM at night these all three persons i.e. father, son and mother left me on the road outside of my parental home. I stayed in a helpless condition with my parents. However, my father send me back to matrimonial home after pacifying me. That in March 2009, my husband, mother-in-law and father-in-law abused me and my parents and again threw me out of the home. Several times my parents tried to resolve this dispute but could not succeed. Thereafter in year 2009 before Diwali, my father got a compromise between us with the intervention of an advocate and I accepted to go to my matrimonial home to save my matrimonial life. In the year 2009, one day before Diwali, I went back to my matrimonial home along with my daughter after getting her name removed from Kidzee Savita Vihar. During the settlement it was agreed that they will provide me a separate room but they deliberately provided me a separate kitchen. My husband often used to drink and beat me and my daughter and moreover he used to tear all my clothes. My mother-in-law and father-in-law also used to instigate my husband and start abusing me with him. These persons do not provide me a single penny for expenses and I often used to bring money from my parents for the expenses of me and my daughter. My husband and father-in-law are clever minded

persons. They often used to intentionally talk to me and used to record my voice in mobile to collect proofs against me. I always talked according to them to save my matrimonial life and to keep them happy. In August 2010, my husband asked me to leave the matrimonial home and when I informed this thing to my father-in-law and mother-in-law, they also supported my husband. I telephonically informed this to my father and in September 2010 these people forcefully threw me out from the matrimonial home and kept my entire belongings with them and started threatening me they can get the divorce at any time on the basis of my recordings and the recordings of my family members. They said that we have so much material which they can use anytime. Now I do not want to go back to my matrimonial home. Kindly provide me back my entire jewellery, clothes and dowry articles and initiate legal proceedings against my husband Ankur, mother-in-law Praveen Mittal and father-in-law Vineet Mittal and kindly save the life and property of me and my daughter because these persons often used to threaten me to get me and my daughter killed. I will be highly obliged for your kindness.”

5. A perusal of the FIR would reveal that there is no allegation of entrustment of any of the articles to Ankur Mittal which is the reason why the learned Additional Sessions Judge vide the impugned order discharged the respondent No.2 for offence punishable under Section 406 IPC. Thus essential element of entrustment missing from the complaint qua Ankur Mittal the learned Trial Court committed no error in discharging him from offence punishable under Section 406 IPC. Merely because the seizure memo dated 6th July, 2012 has been signed by Ankur Mittal wherein few dowry articles including one gold set and one gents gold bracelet has been returned, the same would not lead to an inference that the said articles were entrusted to Ankur Mittal. Thus, I find no error in the impugned order discharging Ankur Mittal for offence punishable under Section 406 IPC.

6. Petition and application are consequently dismissed.

MUKTA GUPTA, J.

SEPTEMBER 02, 2016
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