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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : SEPTEMBER 14, 2016

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CRL.M.C. 2508/2015 & Crl.M.A.8655/2015 (Stay)

MONICA SHARMA

..... Petitioner

Through : Mr.K.K.Manan, Sr.Advocate, with
Ms.Anjali Rajput, Mr.Nihit Dalmia
and Mr.Puneet Singh Dhir,
Advocates.

VERSUS

STATE (THE NCT OF DELHI) & ANR

..... Respondents

Through : Mr.Arun Kr.Sharma, APP.
Mr.Laxman Mehta, Advocate, for
R-2.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present petition under Section 482 Cr.P.C. has been preferred by the petitioner for setting aside of order dated 12.03.2015 of learned Additional Sessions Judge in Case FIR No.49/2010 under Section 304-A/337/338/285 IPC registered at Police Station Neb Sarai. The petition is contested by respondent No.2.

2. I have heard the learned counsel for the parties and have examined the file. Facts are not in dispute. FIR No.49/2010 was registered at Police Station Neb Sarai. Upon completion of investigation, an 'untrace report' was submitted by the Investigating Agency before the learned Metropolitan Magistrate. The Trial Court examined the complainant/respondent No.2 and her witnesses in the complaint case lodged by her. By a detailed order dated 15.01.2015, 'protest petition' as well as complaint case filed by the complainant were dismissed. Being aggrieved, the complainant preferred a revision petition CR No.5/2015. By the impugned order dated 12.03.2015, the learned Additional Sessions Judge without granting any opportunity of being heard to the affected party i.e. the petitioner set aside the order and directed the Trial Court to summon the present petitioner as 'accused' for commission of offences punishable under Sections 304-A/337/338 IPC. Hence, the instant petition.

3. The law is well settled. In *Manharibha Muljibhai Kakadia and Anr.vs.Shaileshbha Mohanbhai Patel and Ors.* MANU/SC/0819/2012, Hon'ble Supreme Court specifically held that a person accused of crime in the complaint can claim right of hearing in revision petition preferred by the complainant against the order of the dismissal of the complaint. Similar are the observations of the Hon'ble Supreme Court in *Bal Manohar Jalan vs. Sunil Paswan* reported as MANU/SC/0531/2014.

4. Since the petitioner was not given an opportunity of being heard by the Revisional Court, impugned order dated 12.03.2015 cannot be sustained and is set aside.

5. The matter is remitted to the Revisional Court for disposal as per law after hearing the parties.

6. The parties shall appear before the Revisional Court on 26.09.2016.

7. The petition is disposed of in the above terms. All pending application(s) also stand disposed of.

(S.P.GARG)
JUDGE

SEPTEMBER 14, 2016
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