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

+ **CRL.M.C. 4794/2016**

I K SAINI

..... Petitioner

Represented by: Petitioner in person.

versus

THE STATION HOUSE OFFICER & ANR Respondents

Represented by: Mr. Amit Ahlawat, APP for the
State with SI Arvind, PS Hauz
Khas.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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13.01.2017

Crl. M.A. No. 19956/2016 (Exemption)

Allowed, subject to all just exceptions.

Crl. M.A. No. 19957/2016 (delay in refiling)

For the reasons stated in the application delay of 455 days in refiling the petition is condoned.

Application is disposed of.

CRL.M.C. 4794/2016

1. The petitioner filed a complaint case before the learned Metropolitan Magistrate seeking registration of the FIR and action against Ms. Prem Sheila. The said complaint was dismissed by the learned Metropolitan Magistrate vide order dated 5th September, 2014 noting that since there is no allegation of any offence committed of which the Court can take cognizance

CRL.M.C. 4794/2016

Page 1 of 4

and the allegations are vague in nature prima and barred by limitation, no case for issuing directions under Section 156 (3) Cr.P.C. was made out and the complaint was also dismissed as not disclosing any offence.

2. Aggrieved by the said order the petitioner filed a revision petition which was dismissed by the learned Additional Sessions Judge vide impugned judgment dated 13th July, 2015. Hence the present petition inter alia praying that the two orders be set aside and action be taken on the complaint dated 13th August, 2014 submitted at PS Hauz Khas.

3. The allegations in the complaint are that the petitioner is a resident of A-70, 2nd Floor, NDSE, Part-II (in short 'the property'). The property originally belonged to one Som Nath Saini, paternal grandfather of the petitioner who expired in the year 1984. Dispute arose between the four legal heirs of the deceased and hence civil proceedings were filed being Suit No.616/1987 and FAO No.104/1988 wherein Ms. Prem Sheila filed an application under Order 22 Rule 3 CPC in the year 2001 upon the demise of one of the four legal heirs of the deceased. According to the petitioner Ms. Prem Sheila tried to create a dispute by introducing a third party on which a kalandara was prepared under Sections 107/150 Cr.P.C. However, the petitioner was acquitted. It is thus alleged that Ms. Prem Sheila filed a complaint falsely and therefore, committed offences punishable under Sections 211/499/506 (ii) IPC. In her complaint dated 22nd July, 2011 to the police authority, Ms. Prem Sheila alleged that since she was residing alone in the property the petitioner had an evil eye and was pressurising her and that the petitioner forcibly entered the premises and tried to outrage her modesty and threw her out from the property.

4. Regular checking of the premises was done by the police authorities of PS Hauz Khas after taking permission from the Joint Commissioner of Police (Vigilance). Despite the fact police authorities suppressed the original facts the Court convicted Ms. Prem Sheila. It alleged that in presence of police officers Ms. Prem Sheila caught hold of the collar of the petitioner and made scandalous allegations against him and PCR report was lodged on 28th March, 2012 in this regard.

5. The petitioner states that there was no truth in the allegations of Ms. Prem Sheila. Ms. Prem Sheila had filed an application under Order 22 Rule 3 CPC. Due to the act of Ms. Prem Sheila several government employees had to face internal inquiries as well as proceedings. Illustrating an instance of abuse of documents, it is stated that Ms. Prem Sheila prepared a bill for water connection No.26176 for the ground floor premises of the property which was a bogus document which the petitioner found in the documents of the certified copies of the records. Ms. Prem Sheila was disturbing her by her nefarious and scandalous allegations and objectionable behaviour. She parked motor bikes in the concerned area and after the petitioner informed the neighbours the same were not found there.

6. Learned Metropolitan Magistrate vide order dated 5th September, 2014 held that even accepting the case of the petitioner at best, Sections 211/599 IPC can be invoked which are both non-cognizable offences and the Court could not take cognizance thereon in view of the bar under Section 195 Cr.P.C. Even otherwise Sections 500/211 IPC were not made out as the Additional Sessions Judge held that the allegations levelled against the petitioner were false. The kalandara was simply disposed of for the reason

that the dispute was civil in nature. Further in respect of prima facie allegations for offence under Section 354 (ii) IPC the same was punishable with imprisonment for two-three months and fine and the complaint was made in the year 2014. Hence the same was barred by limitation.

7. The allegations under Sections 323/511 IPC even taken on their face value were barred by limitation. Having perused the complaint this Court finds no error in the order passed by the learned Metropolitan Magistrate holding that no cognizable offence was made and the non-cognizable offences alleged were either barred by limitation or there was bar to taking cognizance under Section 195 Cr.P.C.

8. Having considered the nature of allegations, this Court finds no error in the impugned orders passed by the learned Metropolitan Magistrate and the order passed by the Additional Sessions Judge dismissing the revision. The petition is dismissed.

MUKTA GUPTA, J.

JANUARY 13, 2017
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