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

+ CRL.M.C. 2987/2016

MOHAMMAD AMJAD

..... Petitioner

Through: Mr. Arvind K Dua and Mr. Sharad P.
Pandey, Advs. along with petitioner
in person.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Gupta, APP for State with
SI Varun, P.S. Jamia Nagar.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **11.07.2017**

FIR No. 224/2013 under Sections 295A/153A/120-B IPC and Section 66A of the Information Technology Act, 2000 was registered at police station Jamia Nagar against one Sharad Sagar Singh, Tinu Sehgal, Ashok Dheer, Kamla Sehgal and Sara Amjad @ Sonia Dheer pursuant to the directions of learned Metropolitan Magistrate passed under Section 156(3) Cr.P.C., on the complaint of petitioner.

Petitioner has alleged in his complaint that Sharad Sagar Singh, Tinu Sehgal, Ashok Dheer, Kamla Sehgal and Sara Amjad @ Sonia Dheer, hatched a conspiracy in connivance with each other, with a view to spoil the married life of petitioner and his wife-Sara Amjad @ Sonia Dheer and had sent vulgar and obscene SMSs to the petitioner on his mobile phone thereby

hurting his religious beliefs. As per the petitioner, Mr. Sharad Sagar Singh had sent these obscene messages from his mobile no. 9716876073 to Sara Amjad @ Sonia Dheer on her mobile no. 9654087114 in the year 2010 who in turn, forwarded the said messages to petitioner on his mobile no. 9210300301.

After the investigation, a closure report was filed before the concerned Metropolitan Magistrate . Petitioner filed protest petition, which was disposed of by the learned Metropolitan Magistrate-10, South-East, Saket Courts, New Delhi and closure report was accepted. Petitioner preferred a Revision Petition before the Additional Sessions Judge which has been dismissed by the judgment dated 7th June, 2016. By way of present petition under Section 482 of the Code of Criminal Procedure, 1973, petitioner has assailed the judgment of learned Additional Sessions Judge.

Learned Metropolitan Magistrate has noted in the order that during the investigation, it was revealed that mobile no. 9716876073 is of Narender Singh, mobile no. 9654078114 is of Sonia Dheer @ Sara Amjad and mobile no. 9210300301 is of petitioner. It is noted here that as per the FIR mobile number 9716876073 is of Mr. Sharad Sagar Singh but this number was found to be that of Narender Singh. It is not the case that Sharad Sagar

Singh had sent the messages to petitioner. Learned Metropolitan Magistrate has observed that mobile phone of the petitioner was seized and sent to FSL, Rohini to retrieve SMSs but the same was not accepted by the agency due to lack of examination facilities, therefore, mobile phone was sent to CFSL, Hyderabad but SMSs could not be retrieved for the lack of facilities. No other incriminating material could be collected against the accused persons during the investigation. Revisional Court has also noted that the SMS's could not be retrieved and has concurred with the learned Metropolitan Magistrate inasmuch as no other evidence could be collected to establish that the feelings of petitioner were outraged due to the alleged SMSs.

It is noted here that the FIR appears to have been lodged in view of the marital breakdown between the petitioner and his wife, that is, Ms. Sonia Dheer. The SMSs were not sent to the petitioner by Mr. Sharad Sagar Singh, who is an outsider, inasmuch as, mobile number given in the FIR even does not belong to him.

I do not find any justification to interfere with the two concurrent findings of the courts below in exercise of the inherent powers of this Court. FIR appears to have been filed by the petitioner being aggrieved by his wife Sonia Dheer @ Sara Amjad who left his company and refused to join his

company despite petitioner filing a writ petition in this Court way back in the year 2008. It is borne out from the record that the petitioner had married Sonia Dheer in the year 2005 after she embraced Islam. However, Ms. Sonia Dheer @ Sara Amjad left the company of the petitioner who filed W.P. (C) 1404/2008 in this Court. Ms. Sonia Dheer @ Sara Amjad appeared in Court and stated that she was not willing to live with the petitioner, accordingly, the said writ petition was disposed of vide order dated 20th February, 2009. Ms. Tinu Sehgal, Mr. Ashok Dheer and Mrs. Kamla Sehgal are close relatives of Ms. Sara Amjad @ Sonia Dheer. Mr. Sharad Sagar Singh is stated to be their family friend.

Petition is dismissed.

A.K. PATHAK, J.

JULY 11, 2017

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