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

+ CRL.M.C. 2666/2017

NAWAL SINGH

..... Petitioner

Through

Mr. Pradeep Teotia and Mr. Siddharth
Chaudhary, Advs.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through

Ms. Meenakshi Chauhan, APP with SI
Nagender Nagar, P.S. Sarita Vihar

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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08.11.2017

Petitioner is uncle of husband of the complainant Ms. Rachna. FIR no. 193/2010 under Sections 498-A/406/34 IPC was registered at Police Station Sarita Vihar on the complaint of Ms. Rachna. After the investigation, charge-sheet was filed against all the accused including the petitioner under Sections 498-A/406/34 IPC. At the time of framing of charge, learned Metropolitan Magistrate scrutinized the charge-sheet and entire material placed on record including the statements of witnesses under Section 161 Cr.P.C. and held that a, prima facie, case was also made out for commission of offences punishable under Sections 323/34 read with Sections 506/34 IPC against Surrender (husband), Dayawati (mother-in-law), Jitender (jeth), Reena (nanad) and

petitioner. As regards offence under Sections 498-A/406/34 IPC is concerned, petitioner has not been charged.

Aggrieved by framing of charges against him under Sections 323/34 IPC read with Sections 506/34 IPC, petitioner preferred a revision petition before the Additional Sessions Judge, Delhi, which has been dismissed by the impugned order dated 15th May, 2017.

That is how, petitioner is before the Court by way of present petition under Section 482 Cr.P.C.

Trial court as well as revisional court have carefully marshalled the entire materials placed on record and returned a categorical finding that a, prima facie, case was made out against the petitioner for having committed the offences punishable under Sections 323/34 IPC read with Sections 506/34 IPC. It is trite law that at the time of framing of charge, entire material collected during the investigation, has to be considered including the statements of witnesses under Section 161 Cr.P.C. and a recording thereof give rise to grave suspicion against the accused for having committed the offences alleged, charge shall be framed.

There are concurrent findings of facts returned by the two courts on scrutiny of the material collected during the investigation and available on record. Jurisdiction under Section 482 Cr.P.C. cannot partake status of an

appeal or for that matter a revision. This Court can step-in and intervene only if it is demonstrated that the continuance of the proceedings will be abuse of process of law resulting in miscarriage of justice.

In this case, I have perused the FIR and charge-sheet and find that there are specific allegations against the petitioner that he had taken out a pistol and hit the butt thereof on the head of father of the complainant, resulting injuries to him. MLC of father of complainant is also there. Petitioner also threatened that in case anybody tried to intervene, he would shoot him. The statements of the complainant and injured under Section 161 Cr.P.C. complied with the MLC cannot be ignored at the time of framing of charge only because petitioner says that he was not present in Delhi, which otherwise is his defence. The above noted material gives rise to a strong suspicion against the petitioner for having committed the offences for which he has been charged with.

For the foregoing reasons, petition is dismissed.

A.K. PATHAK, J.

NOVEMBER 08, 2017/r.bararia