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

+ **CRL.M.C. 5360/2017**

RAJAT GUPTA

..... Petitioner

Through: Mr. U. Jain and Mr. Kamal Sharma,
Advs.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Ms. Manjit Arya, APP for State.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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19.12.2017

By this petition under Section 482 of the Code of Criminal Procedure, 1973, petitioner has prayed for quashing of FIR No. 765/2016 under Sections 498A/304B/34 IPC registered at police station Keshav Puram. Petitioner is brother-in-law (jeth) of deceased-Neha, who died an unnatural death within 11 months of the marriage. After completion of investigation, charge-sheet was filed. On 23rd November, 2017 charges under Sections 498A/304B/34 IPC were framed against the petitioner. Petitioner did not prefer any revision petition under Section 397 IPC against framing of the charge. Instead, present petition has been filed under Section 482 Cr.P.C. for quashing of the FIR, charge sheet and charges framed against him.

It is trite law that in exercise of inherent jurisdiction under Section

482 Cr.P.C. High Court can quash the FIR only in exceptional and rare circumstances and only if it is demonstrated that continuance of the proceedings against the accused will result in miscarriage of justice. In this case, trial court has held that a, prima facie, case was made out against the petitioner, after appreciating the entire material collected during the investigation including the statements of witnesses under Section 161 Cr.P.C. As already stated hereinabove that order framing the charge was not challenged on merits by way of revision petition.

Learned counsel for the petitioner has contended that ingredients of offences under Section 498A/304B/34 IPC are not disclosed against the petitioner on perusal of the contents of FIR; wherein no specific allegations of demand of dowry and harassment of the deceased by the petitioner have been levelled, thus, FIR and the consequent proceedings are liable to be quashed.

I do not find any force in this contention. I am of the view that entire material collected during the investigation including the statements under Section 161 of the witnesses were to be considered and not only contents of FIR. I have perused the statements of the witnesses under Section 161 Cr.P.C., recorded during the investigation and in my view the same disclose

a, prima facie, case against the petitioner for having committed the offences under Sections 498A/304B/34 IPC. Ram Villas, father of the deceased, has stated that few days after the marriage his daughter visited his house and told him that her brother-in-law Rajat Gupta, father-in-law Brij Gupta, mother-in-law Santosh Gupta and her husband used to taunt her regarding the dowry, inasmuch as, they had taken all the articles from her and kept the same with them. His daughter again came after three months and when they asked her about her well-being she started crying and told them that her in-laws were not satisfied with the dowry articles given in the marriage as a result whereof she was suffering great mental stress given to her. She named the petitioner besides others. Ram Villas further stated that his daughter was earning ₹17,000/- per month and petitioner used to keep account of her salary, inasmuch as, he had taken her ATM card and pin number and used to keep the money with him or would give it to his mother after withdrawing the same. He further stated that he and his wife talked with the in-laws of the deceased including the petitioner on this topic at which they told that why should they keep his daughter happy as nothing worth was given. On Diwali articles worth ₹40,000-50,000 were given to the in-laws of deceased including the petitioner but they were not satisfied

with the same. Ram Villas further stated that on the demands raised by Neha's saas, sasur and jeth (petitioner) he paid ₹1 lac on 13th November, 2016 to Neha's husband to ensure that harassment to Neha ends but to no effect. Statement of other witnesses, namely, Shivang, Ujjwal, Seema Gupta, Rama Gupta have also been perused by me and they have also named the petitioner in their statement.

Statement of the witnesses has to be taken on its face value and cannot be ignored at this stage. Veracity of version of the witnesses has to be tested during the trial.

For the foregoing reasons, no case is made out for quashing the FIR. Petition is dismissed.

A.K. PATHAK, J.

DECEMBER 19, 2017
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