

\$~6 & 31 (*common order*)

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 12th October, 2018

- + CRL.M.C. 332/2015 and Crl.M.A.1352/2015
- + CRL.M.C. 3983/2018 and Crl.M.A.29567-29568/2018

NASEEM KHAN Petitioner

Through: Mr. Aman Usman, Advocate.

versus

STATE Respondent

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Dharmendra Singh,
Cyber Cell/Special Cell.
Mr. Rishab Raj Jain, Adv. for
Complainant

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing prosecution on the basis of reports under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted in two different cases arising out of first information report (FIR) No.19/2006 of Police Station Defence Colony and FIR No.67/2006 of Police Station Lajpat Nagar. In each case, allegations have been made about his complicity in certain acts of commission or omission statedly constituting, *inter alia*, offences under Section 387/506 of Indian Penal Code, 1860 (IPC). In each case, charges have been framed against him by the Metropolitan Magistrate, *inter alia*, for offence punishable under Section 387 IPC, the orders having been passed on 22.08.2014 and 24.08.2013. It may be mentioned here that

in the former case, a separate charge under Section 506 IPC was also framed.

2. The petitioner had challenged the said aforesaid orders before the court of Sessions invoking its revisional jurisdiction, his prime contention being that on the basis of the material which had been submitted in each case, charge only for the offence under Section 385 IPC is attracted, the charge under Section 387 having been pressed to skirt around the issue of limitation. His contentions to this effect have been repelled by the revisional court, his Criminal Revision Petition No.36/2014 in the first case having been dismissed on 25.09.2014 and by Criminal Revision Petition Nos.90/2013 and 204817/2016 in the second case by orders dated 25.11.2013 and 12.04.2018 respectively.

3. For completion of narration, it may be added here that in the context of second above mentioned case after the petitioner had failed before the revisional court on 25.11.2013, he had come up with Crl.M.C.664/2014 to this court seeking to assail the said decision which was withdrawn and dismissed accordingly by order dated 12.08.2015, the petitioner having been given liberty *“to take appropriate legal remedy”*. The petitioner thereafter had taken out the second criminal revisional challenge which was repelled by the court of Sessions on 12.04.2018 primarily on the ground that it could not be entertained.

4. It is the contention of the petitioner that he was entitled to bring a second revision petition inasmuch as the first revision petition which was dismissed on 25.11.2013 was directed against the order of the

Metropolitan Magistrate whereby charge was found made out while the second revision petition was against the formal charge that was framed in the wake of such order. In the considered view of this court, this argument is without merit. The formal charges have been framed pursuant to the order earlier passed by the Magistrate, the revisional challenge whereto has already been rejected. The revisional court, in its decision dated 12.04.2018, is correct in treating the second revision petition as impermissible.

5. Be that as it may, the issue as to whether on the basis of facts and evidence presented, a case for charge under Section 387 IPC has been rightly held to be framed is correct or not has been re-examined by this court. There is no merit in the contentions of the petitioner to the contrary. In each case threats *prima facie* were shown to have been extended to put the complainant in fear of death or grievous hurt. This element itself renders each of these cases involving offence graver in nature than the one punishable under Section 385 IPC. Since the ingredients of the penal clause in Section 387 IPC are shown to be existing, the orders framing charge under that provision of law cannot be faulted.

6. The petitions are wholly devoid of substance and, therefore, dismissed.

7. This disposes of the pending applications as well.

R.K.GAUBA, J.

OCTOBER 12, 2018/vk