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

Decided on: 16th July, 2018

+ CRL.M.C. 921/2016 and Crl. M.A. 3830/2016

MOHD KAMIL & ORS

..... Petitioners

Through: Mr. Vijay Kumar Jain,
Advocate

versus

THE STATE & ANR

..... Respondents

Through: Mr. Ravi Nayak, APP for the
State

Mr. Anwar Khan, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petition at hand has been filed seeking order dated 19.09.2015 of the Additional Sessions Judge in Criminal Revision no.22/2015 and order dated 24.12.2014 of the Metropolitan Magistrate in Criminal Complaint case (CC no.103/1/14) to be set aside. The impugned order of the Metropolitan Magistrate was passed on the complaint of the second respondent submitted on 12.01.2010 alleging offences punishable under Sections 380, 451, 427, 448, 403, 506 (II), 34 IPC and Section 136 of Indian Electricity Act having been committed. The Metropolitan

Magistrate issued summons against the petitioners on the basis of pre-summoning inquiry. The said order was challenged before the court of Sessions in Criminal Revision no.22/2015 but unsuccessfully. It is noted that the Sessions court in the impugned order has clarified that the Magistrate has only taken a *prima facie* view on the basis of material on record.

2. Against the above backdrop, question arose as to whether the petitioner having availed of the remedy of revision should be allowed to have recourse to the petition at hand as a substitute for virtually a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C.

3. This Court in an almost similar fact-situation, taking note of the decisions of the Supreme Court reported as *Krishnan Vs. Krishnaveni*, (1997) 4 SCC 241; *Rajinder Prasad Vs. Bashir*, (2001) 8 SCC 522 and *Kailash Verma vs. Punjab State Civil Supplies Corporation & Anr.*, (2005) 2 SCC 571 and following similar view taken by a learned single Judge of this Court in *Surender Kumar Jain vs. State & Anr.*, ILR (2012) 3 Del 99 in absence of a special case being made has earlier declined to interfere by the ruling (dated 03.07.2018) in CrI.M.C. 164/2018 *Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

4. There are no special circumstances made out in the case at hand for the revisional court's view to be disturbed.

5. The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

JULY 16, 2018

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