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

+ **CRL.M.C. 971/2016**

NAGESH JAIN

..... Petitioner

Through: Mr. Zaryab Jamal Rizvi, Adv.

versus

THE STATE & ORS.

..... Respondent

Through: Mr. Izhar Ahmad, APP for State with
ASI DInesh Kumar, PS Sun Light
City.

Ms. Ishita Nagpaul, Adv. for R-3 to
R-6.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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12.01.2018

The respondent no.2, as per the memo of parties, has expired.

The petitioner assails the order dated 08.07.2016 in FIR No. 13/2003, PS Srinivas Puri of the Court of the MM-01 (Mahila Court), South-East District, Saket, Delhi whereby the accused Tinku @ Taween Kumar, respondent no. 7 to the present petition, Neera Jain, respondent no. 6 to the present petition, Rashmi Gupta, respondent no. 5 to the present petition, Gunjan Lata Verma, respondent no. 4 to the present petition, Rashi Gupta, respondent no. 3 to the present petition have already been discharged for the offences punishable under Section 498-A of IPC, 1860 and apparently all these said accused have been discharged named hereinabove also for the

offences punishable under Section 406 of IPC, 1860 and a prima facie case has been indicated to be made out against the petitioner hereinabove Shri Nagesh Jain for the alleged commission of the offence punishable under Section 498-A of IPC, 1860, the said order is taken on record.

A perusal of the petition indicates that it seeks the setting aside of the impugned order dated 09.03.2015 of the ASJ-02, South-East, Saket Courts, Delhi in CrI. R. No. 39/15 whereby the order dated 15.07.2014 of the MM (Mahila Court), South-East District, Saket, New Delhi in FIR No. 13/2003, PS Srinivas Puri have been set aside and vide the present petition, the petitioner has sought the restoration of the order of discharge dated 15.07.2014 of the MM (Mahila Court), South-East District, Saket, New Delhi and has sought the quashing of the charge-sheet filed by the respondent no.1 i.e. the State against the petitioner and has sought the stay of the operation of the impugned order dated 09.03.2015.

As also observed hereinabove, vide order dated 08.07.2016 of Court of the MM-01 (Mahila Court), South-East District, Saket, Delhi FIR No. 13/2003, PS Srinivas Puri other than the present petitioner, all other accused persons Rashmi Gupta, Gunjan Lata Verma, Rashmi Gupta, Neera Jain and Tinku @ Taween Kumar who were arrayed on the record as detailed hereinabove as respondent nos. 3 to 7 have been discharged for the alleged commission of the offences punishable under Section 498-A and 406 of IPC, 1860 and it was further directed to the effect that the petitioner alone who had been discharged in toto

vide order of the MM dated 15.07.2014 had now been charged for the offence punishable under Section 498A of IPC, 1860.

It is apparent that the present petition which had assailed the order dated 09.03.2015 directing the MM concerned to consider the matter afresh setting aside, the order dated 15.07.2014, now does not survive with its present prayer made in the petition inasmuch as it is for the petitioner to assail any of the proceedings and to assail the order that is now in existence dated 08.07.2016 in as much as the petitioner has been directed to be charged for the offence punishable under Section 498A of IPC, 1860.

Learned counsel for the petitioner submits that vide proceedings dated 08.03.2016 it is indicated that the petitioner had filed an application seeking interim relief which was however numbered as Crl. M.B. instead of Crl.M.A. and the Registry had been directed to correct the said mistake and that the proceedings have continued without any grant of such interim relief as a consequence of which the trial before the trial Court continued and thus the consequential order dated 08.07.2016 had been passed. The Registry is directed to ensure that directions that are made to correctly list the petitions and the applications are adhered to so that the litigants do not suffer. Copy of this order be sent to Registrar General, Delhi High Court to ensure the compliance thereof.

As already observed hereinabove, the present petition in its present form does not survive and thus is dismissed as withdrawn, as prayed by learned counsel for petitioner with liberty granted to the

petitioner to seek redressal in accordance with law against the order dated 08.07.2016 as it now stands qua proceedings in FIR No. 13/2003, PS Sriniwas Puri in question.

ANU MALHOTRA, J

JANUARY 12, 2018

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