

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

% Decided on: 6th September, 2018

+ **W.P.(CRL) 867/2018**

PRIYANKA JAIN

..... Petitioner

Represented by: Mr.S.D.Singh, Mr.Rahul K.Singh,
Mr.Kamla Prasad and Mr.Puneet Jain,
Advocates

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Represented by: Mr.Ranbir Singh Kundu, ASC for the
State with Ms.Suman Saharan,
Advocate for the State and SI Aadesh,
PS Prashant Vihar

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this petition, the petitioner seeks transfer of investigation in case FIR No.352/2017 under Sections 498A/406 registered at PS Prashant Vihar to Crime Branch or any other independent investigating agency.
2. Contention of the petitioner in the present petition is that no fair and impartial investigation is being conducted by the police and the procedure established as per law has not been followed. No recovery of the stridhan and dowry articles of the petitioner was made and the accused persons were not arrested. It is contended that after no conciliation could take place in the proceedings before the CAW Cell the above-noted FIR was registered and

as the police officers were showing a bias attitude, the petitioner made a complaint against the said police officials. Thereafter the petitioner was issued a notice under Section 91 Cr.P.C. by the Investigating Officer to which she submitted a reply followed by another notice under Section 160 Cr.P.C. whereafter her statement was recorded under Section 164 Cr.P.C. before the learned Metropolitan Magistrate on 3rd August, 2017. The petitioner also filed a complaint case being Complaint Case No.3223/2017 before the Court of learned Metropolitan Magistrate under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

3. A status report was filed indicating that after registration of FIR on 14th July, 2017 notice under Section 91 Cr.P.C. was given to the complainant on 20th July, 2017 which she replied on 28th July, 2017. After that notice under Section 41A Cr.P.C. was served to the husband of the complainant namely Agrah Garg and on 12th September, 2017, he joined the investigation followed by 11 members of the matrimonial family, who were impleaded as accused. On 9th December, 2017 dowry articles were handed over to the complainant after preparing a list as per the directions of the learned Metropolitan Magistrate and statement of the mediator Pandit, father and grandparents of the petitioner recorded. On 12th March, 2018, the charge sheet was filed before the learned Trial Court.

4. In a further detailed affidavit filed by the DCP Rohini District, it is stated that there was no violation of any of the provisions of the Code of Criminal Procedure or the police manual. It is stated that despite notice to the petitioner under Section 91 Cr.P.C. she did not provide details of the dowry articles or the bills and proofs regarding the alleged dowry articles and was only providing the photographs of the dowry articles. Recovery of

dowry articles was thereafter done. The marriage between the parties was performed on 29th June, 2012 however they separated on 25th January, 2015 and the petitioner lodged the complaint on 21st June, 2017 i.e. after two and a half years of having separated from the husband and the matrimonial family pursuant where to FIR was registered on 14th July, 2017. The dowry articles as per the admitted list submitted by the accused were handed over to the petitioner in police station on 9th December, 2017. In reply to the notice under Section 91 Cr.P.C. the petitioner stated that she had no bills of the stridhan articles and insisted the Investigating Officer to arrest the accused persons even without verifying the facts.

5. It is thus apparent from the reading of the petition, the status report, affidavit of the DCP concerned and the material on record, the insistence of the petitioner was on recovery of the articles without providing bills thereof and arrest of all the accused persons. The investigating agency was not required to arrest the accused if the investigation could be concluded without arresting the accused persons who were duly cooperating in the investigation.

6. As noted above, charge sheet has since been filed on 12th March, 2018 and the present petition was filed only thereafter before this Court on 19th March, 2018 primarily aggrieved by the fact that the accused persons have not been arrested. Charge sheet having been filed against 13 members of the husband's family including the husband and the investigating agency having followed all procedures established by law and as the accused were cooperating in the investigation their arrest was not required, the present petition is nothing but a tactic to arm twist seeking arrest of the accused persons.

7. Petition is thus dismissed imposing a cost of ₹5,000/- to be deposited by the petitioner with the Delhi High Court Legal Services Committee within four weeks.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 06, 2018
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