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

+ **CRL.M.C. 3386/2018 and CrI.M.A.12269/2018**

NIRMAL KUMAR

..... Petitioner

Through: Ms. proxy counsel (*appearance not given*) for Mr. Puneet Goel, Advocate

versus

THE STATE & ORS

..... Respondents

Through: Mr. Amit Ahlawat, APP for the State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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30.11.2018

In the complaint case (CC No.607/1/15) the petitioner had made prayer by application under Section 156 (3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking directions to the police to investigate into the offences under Sections 419/467/465/471/120-B/34 of the Indian Penal Code, 1860 (IPC), allegedly committed by the private party respondents. The Metropolitan Magistrate declined to issue any such directions by order dated 15.07.2016 and, instead, opted to take cognizance and called upon the petitioner (the complainant) to lead evidence under Section 200 Cr.P.C. The petitioner challenged the said order before the court of Sessions (by Criminal Revision Petition No.71/17) which was dismissed by the said court by order dated 06.04.2018, the view taken by the magistrate having been upheld.

The petitioner has come to this court with the petition at hand under Section 482 Cr.P.C. challenging the aid order.

When this petition came up for the first time on 10.07.2018, there was no appearance on the part of the petitioner. The matter was adjourned, no

adverse order being passed on that date. The matter is taken up today and a proxy counsel appears and seeks adjournment on the ground the main counsel is not readily available. There is no reason why the petition should remain pending.

On perusal, this court finds no reasons to interfere. Against the above backdrop, question arises 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.

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 Crl.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.

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

The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

NOVEMBER 30, 2018/vk

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