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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 31st July, 2018

+ CRL. M.C. 2754/2016

AJIT SINGH & ORS.

..... Petitioners

Through: Mr. Ajay Malhotra & Mr.
Ravinder Singh, Advs.

versus

PUSHPA RANI

..... Respondent

Through: Mr. J.K. Singh, Ms. Madhulika
Agarwal & Mr. Harsh Pandit,
Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. On the criminal complaint of the respondent (CC No. 34/2006), the petitioners were summoned to face trial for allegations constituting offences punishable under Sections 406/452/323/504/506/147 of Indian Penal Code, 1860 (IPC) by the Metropolitan Magistrate. Since the criminal complaint arose out of the private complaint case, pre-charge evidence was adduced. Upon consideration of the said pre-charge evidence, the Metropolitan Magistrate, by order dated 11.12.2015, found sufficient grounds to frame charges for offences under Sections 323/406/451/506 IPC read with Section 34 IPC against the petitioners. The magistrate, however, did not find any material to put the petitioners on trial for offences under Sections 147/452/504 IPC. The said order was challenged by the first petitioner by petition (CR no. 15/2016) and by second and third petitioners by a separate

petition (CR no. 16/2016) in the court of Sessions invoking its revisional jurisdiction. Both the said petitions were decided by common judgment dated 03.06.2016, the revisional court holding that there was no merit in the contentions raised and thereby upholding the order framing charge against the petitioners. The said order has been challenged by the petition at hand invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

2. The petition is pressed by the counsel for the petitioners with reference to another criminal case (ID no. 02402R0248372008) it having been instituted by the State on the basis of charge-sheet that was presented on conclusion of investigation into FIR No. 127/2002 of police station Roop Nagar involving offences under Sections 498 A/323/34 IPC in which three persons including the first two petitioners of the matter at hand were put on trial, the said case having resulted in a judgment dated 23.12.2015 of the Court of Metropolitan Magistrate whereby they were acquitted of charges of offences punishable under Sections 498A/323/34 IPC. Such judgment of acquittal sought to be challenged by the complainant (i.e. respondent herein) by Criminal Leave Petition 310/2016 is also listed before this Court today.

3. The contention of the petitioners' counsel is that no allegations of criminal breach of trust were levelled by the State in case arising out of FIR No. 127/2002 of police station Roop Nagar and, therefore, the allegations made in the present case are not credible. This plea cannot be accepted as the allegations made in the criminal complaint

from which the present proceedings arise relate to different set of facts and circumstances, though involving almost similar set of parties, the allegations about criminal breach of trust not being subject matter of trial in the State case.

4. Against the above backdrop, question also 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.

5. 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.

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

7. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

JULY 31, 2018/nk