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

+ CRL.M.C. 3126/2016 and CrI.M.A.13425/2016

JAI KRISHNA & ANR

..... Petitioners

Through: Mr. Himanshu Garg, Adv. with
Mr. Pulkit Krishnatray, Adv.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Mukesh Kumar, APP for the
State with SI Raj Kumar, PS
Kapashera

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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10.09.2018

On the criminal complaint (CC No.2727/1/14) of the second respondent, the Metropolitan Magistrate, by her order dated 26.06.2014, issued directions to the police, i.e., Station House Officer of Police Station Kapashera to register First Information Report (FIR), on the basis of allegations set out in the said complaint pursuant to which directions case FIR No.305/2014 came to be registered for offences under Sections 376 read with Section 511 of Indian Penal Code, 1860 (IPC). Upon conclusion of the investigation, report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was submitted seeking the trial of the petitioners for offences punishable under Sections 354/323/34 IPC. It appears that the

Metropolitan Magistrate has taken cognizance on the said charge sheet and issued process.

The present petition was filed invoking inherent power of this Court under Section 482 Cr.P.C. to seek quashing of the said proceedings. The prayer is resisted by the respondent/State.

The prime grounds on which the aforementioned prayer is made are that the complaint was filed with ulterior motive, concealing and suppressing actual and material facts; the direction by the Magistrate by order dated 26.06.2014 was without appreciating the facts and the settled principles; there was inordinate and unexplained delay in lodging of the complaint; and, that the order has the impact of causing damage to the reputation of the petitioners.

The issue of delay raised in the petition arises from facts alleged in the complaint as contrasted by the statement of facts which form the version of the petitioners. The issues of facts cannot be properly addressed, in the facts and circumstances of the case, under the jurisdiction under Section 482 Cr.P.C. by this Court [*Rajiv Thapar and Ors. vs. Madan Lal Kapoor, (2013) 3 SCC 330*].

The charge sheet having been laid, it has to be assumed that the investigating agency found sufficient material to believe the case set up by the complainant. The Magistrate having accepted the said charge sheet and having issued the process, it is inherent that it has found sufficient grounds to proceed against the petitioners.

The case is at the stage of consideration of charge. The proper course, in the given facts and circumstances, would be to leave the contentions open for the same to be agitated before the criminal court at the stage of consideration of charge.

The petition is disposed of with these observations.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

SEPTEMBER 10, 2018

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