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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 26th November, 2018

+ CRL. M.C. 1851/2015

MANOJ KUMAR & ANR. Petitioners

Through: Mr. Abhishek Pratap Singh,
Adv.

versus

STATE & ANR. Respondents

Through: Mr. Amit Ahlawat, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Anurag Gupta, the younger brother of the second petitioner Leena Gupta, was married to the second respondent Swati Mishra (complainant) on 13.12.2011 at Ghaziabad, Uttar Pradesh according to Hindu Rites and Ceremonies. The first petitioner Manoj Kumar is the husband of the second petitioner and, therefore, brother-in-law (*Nandoi*) to Swati Mishra. On the complaint of Swati Mishra, the police had registered first information report (FIR) no. 6/2015 on 04.02.2015 involving offences punishable under Sections 406/498A/34 of Indian Penal Code, 1860 (IPC) with police station, Crime against Women Cell.

2. The petitioners by the present petition invoking Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C) prayed for quashing of

the proceedings arising out of the said FIR on the ground that the authorities in Delhi do not have the territorial jurisdiction. Notice was given to both the respondents. The second respondent submitted on 29.03.2016, that she did not want to file any formal reply. The first respondent (State) has submitted status reports in respect of the aforementioned case from time to time.

3. The petition came up before this Court on 06.08.2018 when the following order was passed:-

“The petition filed in May, 2015 prays for quashing of the FIR no. 6/2015 of Crime against Women Cell involving offences punishable under Sections 406/498A/34 of Indian Penal Code, 1860 (IPC) registered at the instance of the second respondent. The status report which was submitted on 10.01.2017 by SHO Crime against Women Cell revealed that a charge-sheet was submitted on conclusion of investigation on 30.09.2016 wherein only Anurag Gupta (husband of the second respondent) was sought to be prosecuted, the names of three other persons including the petitioners herein having been shown in column no. 12. The case was at that stage fixed before the Magistrate on 27.11.2017 “for appearance”. Neither the counsel for the petitioners nor the Additional Public Prosecutor nor the investigating officer, who is present, are aware, if any order issuing process against the petitioners has been passed by the Metropolitan Magistrate under Section 204 Cr.P.C. In a matter which has been pending for three years, one in which charge-sheet was submitted in September, 2016, appearance by parties in this Court, without such basic facts being gathered, is unacceptable. The State will have to pull up its socks and do better in future.

Be listed on 26th November, 2018 when the investigating officer shall submit a detailed report as to

the orders which have been passed by the court of Magistrate and the present status of the proceedings in the case pending there”

4. Pursuant to the afore-mentioned directions, the SHO of the police station has submitted an updated status report dated 20.11.2018. This report reveals that the report under Section 173 Cr.P.C. (charge-sheet) was presented in the court of Metropolitan Magistrate at Dwarka Court on 30.09.2016, wherein the prosecution was sought against the husband Anurag Gupta, and the names of the father-in-law and the two petitioners have been shown in column no.12. A copy of the proceedings recorded by the Metropolitan Magistrate in the said case has been submitted, and indicates that till date the Metropolitan Magistrate has not passed any summoning order against the petitioners, the case being listed before the concerned criminal court for consideration of charge against Anurag Gupta on 28.11.2018.

5. In the above view, the petition at hand does not call for any directions. The contentions of the petitioners are reserved and may be agitated before the appropriate forum in accordance with law in the event of they being summoned as accused.

R.K.GAUBA, J.

NOVEMBER 26, 2018

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