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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 30th August, 2018

+ CRL.M.C. 3592/2016

GAURAV GUPTA

..... Petitioner

Through: Petitioner in person.

versus

STATE (NCT OF DELHI) & ORS

..... Respondents

Through: Ms. Meenakshi Dahiya, APP for the State.

Mr. Yogesh Kumar, Adv. for R-3 to 7 & 13.

Mr. Debopriyo Moulik & Mr. Aditya Wadhwa, Advs. for R-8.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner had moved the court of Chief Metropolitan Magistrate by petition dated 11.09.2015 (CC No. 113/1) styled as application under Section 156 (3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) against the private party respondents herein alleging that they had committed offences punishable under Sections 307/341/116/117/119/506/149 read with Section 120 B of Indian Penal Code, 1860 (IPC), the prayer made by him being for a direction to the concerned station house officer of police station to register an FIR and for cognizance to be taken on the said offences besides for

recording of the statement of the complainant and for process to be issued.

2. Having regard to the prayer made in the said application, the request was for direction to the police to investigate and, in the alternative, for the magistrate to take cognizance and hold the preliminary inquiry under Sections 200/202 Cr.P.C. The Metropolitan Magistrate, by order dated 23.04.2016, declined to issue any direction to the police for investigation and thus, dismissed the prayer under Section 156 (3) Cr.P.C. He opted instead to take cognizance by calling upon the complainant to adduce evidence in pre-summoning inquiry and fixed the matter for such purpose.

3. The petitioner challenged the said order before the court of Sessions in criminal revision no. 70/2016. His revision, however, was dismissed by order dated 14.07.2016.

4. The present petition was filed invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C. and under Article 227 of the Constitution of India to bring a challenge to the said two consistent orders of the two courts below.

5. Against the above backdrop, question 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.

6. 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 CrI.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.

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

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

R.K.GAUBA, J.

AUGUST 30, 2018

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