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

Decided on: 16th July, 2018

+ CRL.M.C. 3068/2015 and CrI. M.A. 10890/2015

K S MEHRA

..... Petitioner

Through: Mr. Trideep Pais and Ms.
Sanya Sud, Advocates

versus

STATE OF NCT OF DELHI & ORS Respondents

Through: Mr. Ravi Nayak, APP
Mr. Amit Khemka and Mr. Rishi Sehgal,
Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner was a member of Indian Administrative Service (IAS) while the second respondent was a member of Indian Police Service (IPS), both having held high positions, each of them having since demitted office on reaching the age of superannuation. Both of them were married to each other, the marriage having since been dissolved by a decree of divorce which was granted on 15.10.2007, such decree having been upheld in appeal by this court on 24.11.2008.

2. The petitioner had filed a criminal complaint against the second and third respondents in May 2013 alleging offences

punishable under Sections 120 B, 388, 385 and 506 of Indian Penal Code, 1860 (IPC) having been committed by them.

3. It appears that earlier at the instance of the second respondent, FIR no.108/2012 had been registered by police station EOW against the petitioner which, the petitioner terms to be based on false accusations.

4. In the complaint made before the Magistrate in May 2013, the petitioner alleged that the third respondent, a practicing lawyer projecting himself to be having connections with various high ranking officials and political leaders had met the petitioner on 29.09.2012, the petitioner having agreed to such meeting at the instance of the second respondent. He alleges that during the said meeting, illegal demands of Rs.20,00,000/- which were reduced to Rs.10,00,000/- were made for the petitioner to share revenue from his ancestral properties, this being coupled with threats extended to the effect that if demands were not exceeded to the third respondent would use his position as a lawyer and the second petitioner would use her clout with the Commissioner of Police, with whom she was quite close, leading to the petitioner facing dire consequences. The petitioner would rely on recording of the conversation between him and the third respondent.

5. The aforementioned complaint was accompanied by an application seeking a direction to the police for investigation under Section 156(3) Cr. PC. The Metropolitan Magistrate, by order dated 05.03.2014, dismissed the said application, *inter alia*, observing that the entire evidence was available and within the

reach of the petitioner. While dismissing the prayer under Section 156(3), the Magistrate took cognizance and listed the case for pre-summoning enquiry under Section 200 Cr. PC.

6. The petitioner feeling aggrieved, challenged the aforementioned order in the court of the Sessions invoking its revisional jurisdiction by petition (Crl. Revision No.34/2014). The Revisional Court dismissed the revision petition by order dated (03.06.2015) which is assailed by the petition at hand.

7. 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.

8. 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.

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

added that when the case reaches the stage of Section 202 Cr. PC, the petitioner will have the opportunity to again pray for direction to the police for investigation into the aspects where he needs assistance for the evidence to be gathered.

10. The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

JULY 16, 2018

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