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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 5th September 2018

+ CRL.M.C. 3156/2015 and Crl.M.A.11277/2015, 12282/2016

ARZOO GUPTA

..... Petitioner

Through: Ms. Kaushal Chauhan, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI) & ANR.

..... Respondents

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Dinesh Kumar, PS
Subhash Place.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. By the petition at hand, prayer is made for this court to exercise its inherent power under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to quash the case registered as First Information Report (FIR) No.462/2015 of Police Station Saraswati Vihar, under Section 306 of the Indian Penal Code, 1860 (IPC) on the ground that it is an abuse of the process of law.

2. The FIR which is the subject-matter of the petition at hand was registered on 15.05.2015 on the complaint of the second respondent (the first informant). The first informant is the mother of Pankaj Gupta, who statedly committed suicide by hanging himself by neck at

his home on 07.09.2014. The petitioner is the wife of the said Pankaj Gupta, they having got married on 20.04.2014. It is clear from the allegations made in the FIR that after the marriage, some dispute arose on account of which the petitioner and her husband Pankaj Gupta shifted residence to a rented accommodation in a colony described as Sri Nagar within the territorial jurisdiction of Police Station Saraswati Vihar where the FIR was registered.

3. It is the allegation of the first informant in the FIR that her son Pankaj Gupta had agreed to shift to the rented accommodation under undue pressure of the petitioner, who along with her relatives on the side of her parental family had been demanding that he severed his relation with his family or else, she would commit suicide. References have been made to some incriminating messages exchanged on phone by the petitioner with her husband. It is also alleged that the petitioner was pressurizing her husband to demand his share in the family property from the mother, exchanges to which effect are stated to be subject-matter of recordings in the mobile phone of the deceased. It is further alleged that the petitioner was threatening her husband that if he failed to take his share in the family property, she would lodge a false case of dowry demand. By these allegations, the first informant states, the petitioner had incited and abetted the suicide committed by Pankaj Gupta.

4. The grounds on which quashing of the FIR is sought are primarily that the FIR was lodged after a delay of six months – the suicide took place on 07.09.2014 whereas FIR was registered on

15.05.2015; the allegations made in the FIR are false and concocted and do not make out a case of abetment of suicide; and that the earlier phone instrument did not contain any incriminating recording as has been alleged.

5. The submission as to whether the mobile phone instrument had incriminating recording of conversation or not is a matter of investigation and, in the given facts and circumstances, there is no reason why the investigating agency should be stopped from a comprehensive probe. During the course of submissions, the counsel for the petitioner tried to mislead the Court by saying that a closure report had been filed by the investigating agency. On being repeatedly asked, she was unable to show any record to such effect. It is most unfortunate that while pressing the petition, the counsel should invent facts.

6. It is not proper at this stage to stop the investigative probe only on account of the fact that the FIR was registered about six months after the suicide. It has to be noted that in the complaint which led to the registration of FIR there is a grievance expressed that the police had failed to take any action in the matter. It has also to be borne in mind that the first informant had earlier approached the police which failed to register any case and, on this account, she was constrained to invoke jurisdiction under Section 156(3) Cr.P.C. and approached the Chief Metropolitan Magistrate, under whose directions the FIR was eventually registered. Whether or not there was an intentional or inordinate delay will have to be examined only after the probe is

complete.

7. It is not advisable in the given fact-situation to this court to examine the truthfulness of the allegations in the FIR while exercising jurisdiction under Section 482 Cr.P.C. [*Rajiv Thapar and Ors. vs. Madan Lal Kapoor*, (2013) 3 SCC 330].

8. For above reasons, the petition is dismissed.

9. This disposes of pending applications as well.

SEPTEMBER 05, 2018

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R.K.GAUBA, J.



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