

\$~10

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 3rd August, 2018

+ CRL. M.C. 3780/2015 and CrI.M.A.13378/2015

AVINASH & ORS.

..... Petitioners

Through: Mr. Satish Tamta, Senior Advocate
with Ms. Nisha Narayanan &
Mr. Shariq Iqbal, Advocates

versus

STATE & ANR.

..... Respondents

Through: Mr. Ravi Nayak, APP for the State
With ASI Krishna, CAW Cell.
Mr. Mohit Singh, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Allegations have been made against the petitioners in the case arising out of First Information Report (FIR) No.554/2013 of Police Station New Ashok Nagar involving offences punishable under Sections 498-A/406/34 of Indian Penal Code, 1860 (IPC). On conclusion of the investigation into the said FIR, a report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was submitted on perusal of which the Metropolitan Magistrate (MM) took cognizance and issued processes against the petitioners by her order dated 21.03.2015.

2. The petition at hand invoking inherent jurisdiction of this court under Section 482 Cr.P.C. read with Article 227 of the Constitution of India was filed seeking quashing of the said summoning order raising issues regarding the merits of the allegations in the FIR and that of

territorial jurisdiction, the prime argument being that all the allegations made particularly concerning the offence under Section 498-A IPC pertain to area beyond the territorial jurisdiction of Delhi, the petitioners being residents of the District Gautam Budh Nagar in U.P. where the second respondent (the complainant of the case) was residing, it being her matrimonial home, during the relevant period.

3. At the hearing, the learned Additional Public Prosecutor pointed out that the criminal case in which the impugned order of summoning was passed has reached the stage of consideration of charge on 01.03.2017. But the petitioners, instead of availing the opportunity have failed to assist the said court in the matter, adjournments having been taken, and granted, under the pretext of this matter seeking quashing of the summoning order being pending before this court.

4. The case status and details as downloaded from the website of the District Courts, as submitted at the hearing, would confirm the fact that the case had reached the stage of consideration of charge for which the matter was listed before the Metropolitan Magistrate on 25.04.2017 but it was deferred from time to time, last date for such purposes being 15.11.2017.

5. Even though the matter at hand has been pending before this court at the instance of the first petitioner (Avinash), he appears to have jumped bail and evading the court process before the Metropolitan Magistrate. This is shown by copy of the proceedings recorded by the trial court on 23.04.2018 indicating process under Section 82 Cr.PC having been issued against him on an earlier date. The copy of the said proceedings would further reflect that even the

second to fourth petitioners have made endeavour to stall the proceedings before the trial court by remaining absent, this having resulted in bailable warrants followed by non-bailable warrants being issued against them with notices to their sureties to secure their presence. Though the learned counsel for the petitioners submitted that on subsequent date (11.05.2018) on an application moved by the second to fourth petitioners, the non-bailable warrants against them were recalled thereby restoring the bail bond, the fact remains that the first petitioner continues to evade.

6. The case having reached the stage of consideration of charge, this court is of the opinion that the second to fourth petitioners must present their submissions on the issue of jurisdiction as also on the question of charge against them before the trial court and thereafter, if need be, they would have the liberty to pursue the remedies available in law. They cannot be allowed to speak on behalf of the first petitioner with whom they had joined to file this petition and who has been evading the court processes all along.

7. Ordered accordingly. For removal of doubts, it is added that the contentions of both sides on the question of charge and the territorial jurisdiction are reserved to be considered first by the trial court.

8. The petition with application filed therewith are disposed of in above terms.

R.K.GAUBA, J.

AUGUST 3, 2018
vkyg