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

+ CRL.M.C. 19/2018

PUSHPA DEVI

..... Petitioner

Through: Ms. Suman Kapoor, Adv.

versus

OM PRAKASH & ORS

..... Respondents

Through: Mr. G.M. Farooqui, APP with SI Yod  
Ram Yadav, P.S. Moti Nagar.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

% **03.01.2018**

On the complaint of petitioner, FIR No. 68/2003 under Sections 498A/406/34 IPC was registered at police station Moti Nagar in the year 2003. After completion of investigation charge-sheet was filed in the trial court. Petitioner was examined as PW1 on 4<sup>th</sup> May, 2011. Prosecution evidence was closed on 20<sup>th</sup> July, 2012. Only thereafter, petitioner moved an application under Section 311 Cr.P.C. on 3<sup>rd</sup> September, 2012 for recalling her in the witness box to enable her to produce certain documents which were in her possession and were relevant for proving allegations in the FIR regarding the demand of dowry and detainment of jewellery articles by her in-laws, that is, accused, that is, respondent. She also claimed that the said documents were given to the Investigating Officer during the investigation, but same were not filed in court.

Vide order dated 24<sup>th</sup> January, 2017 the said application was dismissed

by the learned Metropolitan Magistrate, Delhi. Petitioner preferred a revision petition which has been dismissed by the learned Additional Sessions Judge vide order dated 8<sup>th</sup> September, 2017.

That is how petitioner is before this Court by way of present petition under Section 482 Cr.P.C.

Learned Metropolitan Magistrate has held that complainant was discharged after recording of her evidence on 4<sup>th</sup> May, 2011. Prosecution evidence was closed on 20<sup>th</sup> July, 2012. Only thereafter, present application was filed. A perusal of list of documents indicated that all the documents pertain to the period prior to the year 2002. Petitioner was in possession of these documents even before registration of the FIR. Petitioner had ample opportunity to file the documents when she was called to depose in the matter. However, no such steps were taken by the petitioner. Learned ASJ has concurred with the learned Metropolitan Magistrate.

Learned APP submits that no documents were provided to the Investigating Officer during the investigation, which is clear from the fact that these documents allegedly in possession of petitioner even now.

Learned counsel for the petitioner submits that only photocopies were given but the same were not filed by the Investigating Officer. A perusal of the application shows that this contention is not correct. Petitioner has claimed in

her application that she had provided all the documents, that is, receipts pertaining to the articles, that is, clothes and jewellery items purchased by her father at the time of her marriage to the Investigating Officer. Nowhere, it is written in the application that photocopies were provided to the Investigating Officer. Thus, it appears that no documents were provided, much less the documents now sought to be produced, to the Investigating Officer during the investigation in the year 2003 or thereafter.

Trial court has noted that petitioner remained silent for 16 months and waited for prosecution evidence to be closed. FIR was registered in the year 2003 and accused had been facing trial since then. Allowing the application at this stage would amount to reopening of the entire case which shall be prejudicial to the accused person. I do not find any perversity in the impugned order which may require interference by this court under Section 482 Cr.P.C.

Petition is dismissed. Miscellaneous applications are disposed of as infructuous.

**A.K. PATHAK, J.**

**JANUARY 03, 2018**

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