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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 06th September, 2018

+ CRL.M.C. 4175/2015

AMIT MEHTA

..... Petitioner

Through: Mr. K.C. Mittal, Ms. Ruchika Mittal, Mr. Yugansh Mittal and Mr. Amit Prakash Shahi, Advocates

versus

STATE (NCT OF DELHI) & ORS

..... Respondents

Through: Mr.Ravi Nayak, APP for the State with SI Rakesh Kumar, PS Saket.

Mr. Sanjeev Kumar, proxy counsel for R-2 to 5

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner had addressed a representation dated 28.05.2014 to the Deputy Commissioner of Police (South), a copy whereof was endorsed, amongst others, to the District & Sessions Judge, who made it over to the Additional Chief Metropolitan Magistrate (ACMM), who, in turn, treated it as an application under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr. PC). The ACMM called for an action taken report from the police, presumably with reference to the complaints that had been lodged earlier and, upon perusal of the said report dated 19.08.2014, it declined to issue any direction for investigation but, at the same time, opted to take cognizance

embarking upon an inquiry under Sections 200 & 202 Cr. PC. The order dated 16.03.2015 to this effect was challenged in the court of Sessions by Criminal Revision No.33/2015, which was dismissed by the said court on 22.07.2015.

2. Aggrieved by the said view taken by the two courts below, the present petition was filed invoking the inherent power of this court under Section 482 Cr. PC.

3. Having heard the learned counsel for the petitioner, this court finds no good grounds to interfere. A perusal of the petition dated 28.05.2014, which was addressed to the Deputy Commissioner of Police, South District and copy whereof was treated as a complaint petition by the ACMM would show that the petitioner, and those on his side, have had an on-going dispute with the parties against whom allegations have been made, the same being subject matter of several cases including criminal case no.237/2010, criminal case no.2621/2013, pending in the court of the ACMM, Saket, New Delhi and CJM, Mainpuri, U.P. respectively besides three FIRs they being referred to as FIR nos.434/01, 358/96 and 33/13 of police stations Karol Bagh, Mehrauli and Neb Sarai respectively. The allegations of land grabbing, rape and criminal intimidation concerning the said other cases have been set out in the complaint from which the present proceedings arise as the background. Allegations have been made that threats were extended, pursuant allegedly to a criminal conspiracy, to falsely implicate the petitioner in a case involving breach of provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities

Act), 1989. The last element is described as the thrust of the case which was attempted to be made out through the representation addressed to the police on which investigation through “*an intelligent officer*” was sought. The Metropolitan Magistrate has also taken it as a case involving offence under Section 506 of the IPC. He found no good grounds to direct an investigation. The view taken by the magisterial court has been upheld by the revisional court.

4. 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.

5. 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 a 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.

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

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

R.K.GAUBA, J.

SEPTEMBER 06, 2018

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