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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 28th August, 2018

+ CRL.M.C. 4452/2015

PREETI KHURANA AND ORS Petitioners

Through: Mr. Mohit Kukreja, Advocate

versus

STATE OF NCT OF DELHI AND ANR Respondents

Through: Mr. Mukesh Kumar, APP for the
State with ASI Aman Kumar, PS CAW Cell
Nanak Pura

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. On 14.05.2010, the second respondent had instituted criminal complaint case (CC no.152/2/14) in the court of the Additional Chief Metropolitan Magistrate, New Delhi (ACMM) alleging offences punishable under Sections 454, 457, 506, 34 of the Indian Penal Code, 1860 (IPC) having been committed by the petitioners. On the basis of pre-summoning inquiry, they were summoned as accused persons by order dated 28.01.2015 of the Metropolitan Magistrate.
2. The said order was challenged before the court of Sessions in Criminal Revision Petition No.223/15 which was, however, dismissed by the Additional Sessions Judge by his order dated 07.09.2015.
3. The petition at hand brings yet another challenge to the said orders invoking the inherent jurisdiction of this court under Section 482 Cr.PC.

4. The background facts need to be noted briefly. It is admitted position that the first petitioner is the wife of Sumit Khurana, the second respondent (complainant) of the case being the mother of the said Sumit Khurana, the other petitioners close relatives of the first petitioner, they being members of her parental family. It is clear from the averments that the marriage of the first petitioner with Sumit Khurana had run into rough weather, she having earlier lodged first information report (FIR) no.71/2010 with police station Crime Against Women Cell alleging offences punishable under Sections 498, 406, 34 IPC, this following another FIR no.13/2011, which was earlier registered for offences under Sections 380, 406, 34 IPC.

5. Be that as it may, the case of the second respondent in the criminal case in a nutshell was that the petitioners herein taking advantage of her old age and ill-health, pursuant to a criminal conspiracy had forcibly entered into her house, it being house no.M-4, third floor, Old double storey, Lajpat Nagar-4, New Delhi on the night of 18/19.09.2009, breaking open the locks and having extended threats to her, upon protest being lodged.

6. The petitioners raised two contentions while seeking quashing of the summoning order as passed by the Metropolitan Magistrate and as affirmed by the revisional court; one, that the Metropolitan Magistrate who passed the order did not have the territorial jurisdiction since the property where the offences allegedly took place fall in the area of police station Amar Colony whereas the concerned Metropolitan Magistrate had the jurisdiction over the cases of adjoining police station Lajpat Nagar, and second, that the fact that

there was an interim order operating in favour of the first petitioner *vis-à-vis* her right and that of her children in respect of the shared household i.e. house no.M-4, third floor, old double storey, Lajpat Nagar-IV, New Delhi had been concealed from the criminal court.

7. This court finds no merit in either of the above contentions.

8. The criminal complaint, as noted earlier, was addressed to the Additional Chief Metropolitan Magistrate who was exercising jurisdiction over the entire South-East district of Delhi at the relevant point of time. The Additional Chief Metropolitan Magistrate, in exercise of the discretion vested in him, had made over the complaint for inquiry to the Metropolitan Magistrate who ordinarily was exercising jurisdiction over the cases of police station Lajpat Nagar. It does appear that, by his order dated 12.01.2011, the said Magistrate had returned the matter to the Additional Chief Metropolitan Magistrate for appropriate directions in this regard pointing out that the case pertained to the jurisdiction of police station Amar Colony. It also does appear that the case eventually came to be inquired into, leading to the impugned order being passed, by the Metropolitan Magistrate who was not exercising the ordinary jurisdiction over police station Amar Colony. But, the fact remains that the concerned Magistrate, who passed the order dated 28.01.2015 was exercising the jurisdiction in South-East sessions division (metropolitan area) of Delhi. Having regard to this and as indeed the fact that the Metropolitan Magistrates in Delhi are conferred with the power and jurisdiction which extends throughout the National Capital Territory

of Delhi, there is no case of jurisdictional error or deficiency made out in the case at hand.

9. The copy of the order dated 12.10.2009 of the Metropolitan Magistrate, New Delhi, passed on a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 instituted by the first petitioner does show that a restraint order had been issued against she and her children being dis-possessed from the house of the complainant herein. This restraint order, however, cannot make out a case for the summoning order or the criminal complaint of the second respondent to be quashed. The said order, at the most, conferred certain rights on the first petitioner. But, that would not extend to, or inure in favour of, her relatives i.e. other petitioners, not the least so as to permit any of them to forcibly enter into the house of the second respondent, that too by breaking open the locks in the late night hours as is alleged.

10. The inquiry into the truth of the matter will have to be made during the further proceedings before the trial court and, therefore, no further observations on this issue at this stage in the present proceedings are called for.

11. The petition is dismissed.

R.K.GAUBA, J.

AUGUST 28, 2018

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