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

+ **Crl. M.C. 6256/2019 & Crl. M.A. 41949/2019**

VARUN GUPTA

..... Petitioner

Through Ms. Varnita Rastogi and Mr. Pronoy
Chatterjee, Advocates.

versus

STATE & ANR.

..... Respondents

Through Mr. Amit Ahlawat, APP for the State
with SI Vinit Kumar-P.S. Prashant
Vihar.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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05.12.2019

CRL.M.A. 41950/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

Crl. M.C. 6256/2019 & Crl. M.A. 41949/2019

1. Issue notice. Ld. APP for the state who appears on advance notice accepts notice.
2. The petitioner by way of the present petition is seeking setting aside of the impugned order dated 15.04.2019 passed by the Ld. A.S.J., upholding the charges framed by the Ld. MM vide order dated 24.09.2018.
3. It is submitted by the Ld. APP for the state that the petitioner is abusing the process of law and he is again and again filing the petition with the same cause of action. He further submits that vide order dated 07.08.2019 the Coordinate Bench of this Court has dismissed the similar

petition bearing CRL.M.C. 3901/2019 & Crl. M.A. 33052-53/2019, holding that the question of facts as raised in that petition can only be answered at the time of trial. He further submits that the similar question of facts are being again raised by the petitioner in this petition and these grounds cannot be called into question in extraordinary jurisdiction of this Court and are matter of trial.

4. In view of the submissions of the Ld. APP, I have perused the order dated 07.08.2019, passed by the Coordinate Bench in CRL.M.C. 3901/2019 & Crl. M.A. 33052-53/2019. The Ld. MM vide order dated 24.09.2018 framed the charges against the petitioner U/s 354-A/(i) IPC, 323/451/354, 509 and 506 IPC. Aggrieved by the said order the petitioner challenged the same before the Ld. A.S.J. by filing a revision petition. The Ld. A.S.J. vide impugned order dated 15.04.2019 dismissed the revision petition upholding that there was no illegality or infirmity in the order on charge dated 24.09.2018 passed by the Ld. MM.

5. I have perused the order dated 07.08.2019 passed by this Court. The relevant portion of the order is as follows :

"In above view, the order of the criminal court framing charge put the petitioner on trial has attained finality. From this, it naturally follows that the charge which has been pressed before the trial court for such prosecution, as above, has been found to be based on substantive prima facie material.

In these circumstances, it is inappropriate for a fresh petition to be filed to seek an inquiry into the issue of facts by this Court in the limited jurisdiction under Section 482 Cr.P.C. Such question of facts as are raised will have to be answered only at the trial and it is impermissible for the extraordinary jurisdiction of this court to be invoked. [*See. Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330*]."

6. By virtue of the present petition also the petitioner is once again seeking an inquiry into the facts of this case which as already observed by the Coordinate Bench is not permissible in the extraordinary jurisdiction. I also subscribe with the same view and the inquiry into the facts as sought by the petitioner in his petition cannot be gone into. The petition is, therefore dismissed and the Crl. M.A. 41949/2019 is also disposed of accordingly.

RAJNISH BHATNAGAR, J

DECEMBER 05, 2019

Sumant