

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: March 12, 2019

+ **CRL.M.C. 1333/2019 and CRL.M.As. 5301-5302/2019**

ASHISH MADAAN

..... Petitioner

Through: Mr. Chirag Khurana and Mr. Nitin
Arora, Advocates

Versus

STATE & ORS

.....Respondents

Through: Mr. M.P. Singh, Additional Public
Prosecutor for State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Petitioner is accused in FIR case for the offences under Sections 406/498A/34 of IPC, and a complaint for the offence under Section 406 read with Section 120-B of IPC alongwith application under Section 156(3) of Cr.P.C. was filed by petitioner against his estranged wife, mother-in-law etc.

Trial Court vide order of 3rd October, 2018 has dismissed petitioner's application under Section 156(3) of Cr.P.C. and has directed petitioner/complainant to lead pre-summoning evidence. Revisional Court vide impugned order of 28th January, 2019 has upheld trial court's order but has observed that when no offence is disclosed, taking of cognizance is not justified and complaint case was liable to be dismissed.

Learned counsel for petitioner submits that registration of FIR is necessary to trace out one *Ali* and to corroborate the CDR details to establish the offence under Section 120-B of IPC. It is submitted that petitioner's application under Section 156(3) of Cr.P.C. and Criminal Revision Petition have been dismissed without putting opposite side to notice.

Upon hearing and on perusal of impugned order and the material on record, I find no justification to interfere with the concurrent findings returned by the courts below so far as dismissal of application under Section 156 (3) of Cr.P.C. is concerned. However, the Revisional Court was not justified in observing that no offence is made out. In the facts and circumstances of this case, impugned order of 28th January, 2019 is modified to the aforesaid extent while upholding dismissal of petitioner's application under Section 156(3) of Cr.P.C. Consequently, trial court shall proceed with pre-summoning evidence and proceed with petitioner's complaint in accordance with the law.

With aforesaid directions, this petition and applications are disposed of, while not commenting upon merits.

(SUNIL GAUR)
JUDGE

MARCH 12, 2019
p'ma