

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

Date of Order: March 13, 2019

+ **CRL.M.C. 1365/2019 & CRL.M.A. 5429/2019**

RAHUL SHARMA

.....Petitioner

Through: Mr. Ashok Kr. Singh, Senior
Advocate with Mr. Adarsh Tripathi
and Mr. Ashutosh Ranjan,
Advocates

Versus

STATE & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Additional
Standing Counsel and
Mr. M.S.Oberoi, Additional Public
Prosecutor for respondent-State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Petitioner's complaint under Section 156(3) of Cr.P.C. stands dismissed by trial court vide order of 2nd July, 2018 by observing that petitioner/complainant has to make out a case and the present complaint is nothing but a sheer abuse of the process of the Court, which cannot be allowed. Revisional Court vide impugned order of 27th October, 2018 has affirmed trial court's order while observing that complainant cannot be given permission to file second complaint on the same facts.

Learned senior counsel for petitioner submits that the permission was sought to withdraw the complaint under Section 156(3) of Cr.P.C. and it could not have been treated as a first complaint, as no complaint

under Section 200 of Cr.P.C. was filed alongwith the complaint under Section of 156(3) of Cr.P.C. It is also submitted that the impugned orders have been passed without issuing notice to respondents No. 2 and 3. Permission is sought to withdraw the complaint under Section 156(3) of Cr.P.C. with liberty to file a proper complaint under Section of 200 of Cr.P.C.

On behalf of respondent-State, it is pointed out that the limitation period for filing the complaint has expired. This is an aspect which is not required to be considered at this stage and the courts below have erred in treating the application under Section 156(3) of Cr.P.C. as a complaint and have made observations on merits.

In the facts and circumstances of this case, petitioner is permitted to withdraw the application under Section 156(3) of Cr.P.C. with liberty to file a proper complaint under Section 200 of Cr.P.C. The question of limitation, etc., would be considered by the court concerned, prior to proceeding further with the said complaint.

This petition and the application are disposed of, while making it clear that any observation made in the impugned orders shall have no bearing upon the court concerned while dealing with petitioner's complaint under Section 200 of Cr.P.C.

(SUNIL GAUR)
JUDGE

MARCH 13, 2019

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