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

+ **CRL.M.C. 6021/2019**

REEMA JAIN

..... Petitioner

Through Mr. Ravindra Narayan, Adv.

versus

STATE & ORS

..... Respondents

Through Mr K K Ghai, APP for State

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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26.11.2019

CRL. M.A. 41173/2019

Allowed, subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 6021/2019

By way of the present petition, the petitioner seeks directions thereby to set aside the order dated 02-09-2019 passed by the M.M. (Mahila court) (East), Karkarooma Courts, Delhi in case FIR No. 499/2005, PS Shakarpur U/s 406/498A I.P.C. and allow the petitioner to place on record the documents which were supplied to the petitioner after the registration of the case, for the events which had taken place afterwards or the recordings which were done by the petitioner at the time of her stay with respondent No.2.

As per Section 173 (5) Cr.P.C., all the relevant documents should be produced along with the charge sheet and documents sought to be filed by

the petitioner, ought to have been seized by the IO during the course of investigation and should have been filed along with the charge sheet or supplementary charge sheet, in terms of Section 173 (8) Cr.P.C. Since this was not done by the IO, the prosecution cannot file documents at such a belated stage after submission of the charge sheet and when recording of prosecution evidence is underway. If the prosecution is allowed to do so, it is likely to prejudice the accused in their defence.

This Court put a query to the learned counsel for the petitioner as to why such documents were not filed by the petitioner at the time of submission of charge sheet and as to why permission to file the same is being sought at such a belated stage when examination in chief of petitioner/complainant has already been recorded to which the learned counsel for the petitioner could not give any satisfactory reply.

Production of documents, which were in custody of the petitioner/complainant at a belated stage to fill up the lacunae in the case of the prosecution as it is against established procedures. In the event, the prosecution is allowed to produce documents after commencement of trial and that too after examination of complainant, it would not only prejudice the defence of the accused but would also take away legal right of the accused accrued to him to challenge the materials produced before the court.

In the case in hand, the petitioner/ complainant has failed miserably to give any plausible or cogent reason for not having filed the documents at the appropriate stage, that too, when such documents were very much in her possession since the beginning. Moreover, the petitioner/complainant never chose to file such documents earlier when her examination in chief was being recorded.

In view of the above, I find no illegality or perversity in the order passed by the Court below. Accordingly, finding no merit in the present application, the same is accordingly dismissed.

Despite the above order passed by this Court, learned counsel for the petitioner/complainant is still insisting to grant permission to the petitioner to file the documents on record. Thus, he has wasted precious time of the Court. Therefore, while dismissing the petition in hand, I hereby impose cost and direct the petitioner to deposit a sum of Rs.5,000/- as cost, in favour of Library fund of BAR Association, Karkardooma Courts, Delhi. The cost be deposited within a period of two weeks from today.

In case of non deposition of cost by the petitioner, the District & Sessions Judge Concerned shall ensure recovery of cost, as per law.

SURESH KUMAR KAIT, J

NOVEMBER 26, 2019

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