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

+ W.P.(CRL) 2197/2018

NISHAT AHMAD KHAN

..... Petitioner

Through: Mr Shahid Azad and Mr Mahboob
Alam Inayati, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr Piyush Singhal, Advocate for Mr
Ashish Aggarwal, ASC for State.
SI Gaurav Chaudhary, PS Shaheen
Bagh.
Mr Vaibhav Sharma, Advocate for R-
2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **15.10.2019**

1. The petitioner has filed the present petition, *inter alia*, praying that FIR bearing No. 0195/2018 registered at P.S. Jamia Nagar, under Sections 498A/406/506/354B/354/377/34 of the IPC, be quashed.
2. It is the case of the petitioner that a plain reading of the said FIR does not set up a case of offences under Section 377 or 498A of the IPC. The said FIR was registered at the instance of respondent no.2. Respondent no.2 was married to the petitioner. It is the petitioner's case that since he is the husband, the allegation of an offence under Section 377 of the IPC for unnatural sex cannot be maintained. According to him, the said offence is covered under Section 375 of the IPC and the said Section is not applicable by virtue of exception (2) to the said Section.
3. It is clear that there is no such exception under Section 377 of the

IPC. The issue whether any such offence is established would have to be considered by the Trial Court at an appropriate stage.

4. It is also seen that there are other serious allegations made in the FIR in question which, if established, would lead to conviction for commission of offences under several sections of the IPC.

5. It is also important to note that the allegations are not limited to the petitioner alone but have been levelled against the petitioner's uncle as well. It is also alleged in the said FIR that the petitioner is complicit with his uncle in commission of these offences.

6. In view of the above, the present petition is unmerited and is, accordingly, dismissed with costs quantified at ₹25,000/-. The costs shall be deposited with the Delhi High Court Legal Services Committee within a period of two weeks from today.

OCTOBER 15, 2019
RK

VIBHU BAKHRU, J