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

+ CRL.M.C. 3701/2016 & CRL.M.A. 15482/2016

ASEEM MOWAR

..... Petitioner

Through : Mr. Siddharth Aggarwal,
Mr. Shri Singh, Mr. Nikhil Pillai,
Mr. Abhinav Sekhri, Ms. Shuchi
Dwivedi and Mr. Saransh Gutpa,
Advs.

versus

STATE & ANR

..... Respondents

Through : Mr. Amit Ahlawat, APP for the State
along with SI Surender Singh, PS
Dwarka Sector 23.
Mr. Dhruv Sharma, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

19.03.2019

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The first information report (FIR No.478/2015) was registered by the Police Station Sector 23, Dwarka on 28.11.2015 on the complaint of the second respondent (the complainant). The case was taken up for investigation into certain acts of commission and omissions attributed to the petitioner (the accused), they statedly constituting offences punishable under Sections 354, 509, 506 of Indian Penal Code, 1860 (IPC). Upon conclusion of investigation, a report (charge-sheet) under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was filed in the Court of Additional

Chief Metropolitan Magistrate (ACMM) seeking trial of the petitioner (accused) on charge for offences under Sections 341, 506 and 509 IPC and Section 11 of Prevention of Cruelty to Animals Act, 1960.

The ACMM considered the question of charge and passed the order dated 14.07.2016 which is impugned by the accused by the present petition invoking the inherent powers and jurisdiction of this Court under Sections 482 and 483 Cr.P.C.

It is noted, the ACMM by the impugned order took sufficient material to put the petitioner on trial on charge for offences under Sections 341, 509 and 352 IPC, which were accordingly framed on the same date, no charge being found made out for the offence under Section 506 IPC or under Section 11 of the Prevention of Cruelty to Animals Act.

At the hearing, it is brought to the notice of this Court that the complainant has also challenged the order dated 14.07.2016 by invoking the revisional jurisdiction of the Court of Sessions thereby assailing the view of the ACMM that charge for the aforementioned offences was not made out.

The revision petition is stated to be pending on the file of Additional Sessions Judge.

When the petition came up for hearing on 30.09.2016, while issuing notice, it was directed that the proceedings before the trial court shall remain stayed. By order dated 24.03.2017, the factum of the simultaneous revisional scrutiny having been brought to the notice of the Court, it was directed that the interim order shall continue *vis-a-vis* the revisional court as well.

The stay order has continued to remain operative till date.

The learned counsel for the petitioner, on instructions, submitted that he may be permitted to withdraw the present petition so as to take challenge to the order of the ACMM directing charge to be framed against him for the above mentioned offences for scrutiny by the same revisional court where challenge by the complainant is already pending. The petitioner is seeking liberty to approach this Court under Section 482 Cr.P.C. in the event of any adverse order being passed in the pending revision petition by the second respondent and in the revision petition of the petitioner, which he proposes to now file.

At the same time, the counsel for the petitioner submitted that it will be desirable that the stay against the proceedings in the trial court should continue so that the trial, if required to be eventually held, the offences continue uninterrupted, not being disturbed by any decision of the revisional court midway. He also submitted that the petitioner acknowledges that he and the second respondent are neighbours and they have to live peacefully and therefore, he offers to sit across to resolve the disputes amicably for which a request is made that the matter be referred to mediation.

The learned counsel for the second respondent, as indeed, the Additional Public Prosecutor for the State submit their no objection to the above request.

The petition and the pending application is thus dismissed as withdrawn.

The petitioner has the liberty to prefer the revision petition before the Court of Sessions to bring a challenge under that jurisdiction to the order directing charge to be framed against him and, if required, after the decision on the said revision petition, to approach this court by a fresh petition under Section 482 Cr.P.C. The proceedings in the trial court shall remain stayed till the presently pending revision petition and the revision petition of the petitioner, if filed, are disposed of. The revisional court and if need be the trial court thereafter, may consider the request for reference of the disputes to the process of mediation upon such request being made by either of the parties.

R.K.GAUBA, J

MARCH 19, 2019
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