

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: March 11, 2019

+ CRL.M.C. 3639/2017

DINESH KUMAR Petitioner
Through: Mr. Abhinav Mukherjee, Advocate

Versus

STATE OF NCT OF DELHI & ANR. Respondents
Through: Mr. Izhar Ahmed, Additional
Public Prosecutor for respondent
No.1-State with SI Sandeep
Mr. Mahavir Sharma &
Mr. K.P.Singh, Advocates for
respondent No.2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No.1011/2015, registered at police Station Begumpur, Delhi and charge-sheet filed under Sections 354/509 IPC against petitioner and the summoning order of 17th March, 2017 is assailed in this petition on the ground of double jeopardy.

Petitioner's counsel submits that regarding incident of 20th January, 2013, respondent-complainant had lodged an FIR No. 296/2013 under Sections 406/498A/34 IPC and in the said FIR, there were no allegations constituting offence under Section 354 IPC against petitioner and trial in the said FIR case is still pending. It is submitted that petitioner is the cousin brother of complainant's husband and he has been falsely implicated in this case, as he is working as Constable in Delhi Police. It is also submitted that petitioner had informed his department on 6th March,

2013 about leveling of false allegations against him and his family by the complainant. It is next submitted that in view of pendency of first FIR, this second FIR in relation to the same incident of 20th January, 2013 is not maintainable. It is pointed out by counsel for petitioner that there is about three years' delay in lodging the second FIR. It is brought to the notice of this Court that respondent-Complainant had lodged false FIR No. 333/2010 under Section 506/509 IPC against her former boss *Mr. Sanjeev Arora* and thereafter had settled the matter with him after receiving the money. To seek quashing of FIR in question and proceedings emanating therefrom, reliance is placed upon decisions in *T.T.Antony Vs. State of Kerala & ors.* (2001) 6 SCC 181 and *Dilawar Singh Vs. State of Delhi* (2007) 12 SCC 641.

On the contrary, learned Additional Public Prosecutor for respondent-State and complainant submits that to save the marriage, the allegations against petitioner were not levelled in the first instance and since the matrimonial discord is beyond reconciliation, therefore, now respondent-complainant has come out with true facts and so, lodging of second FIR is justified. It is pointed out that the delay in lodging the second FIR is not of three years but of one year, as respondent-complainant had given the complaint regarding offence under Sections 354/509 IPC to the SHO, Begumpur, Delhi on 17th August, 2014 and also in the first FIR/complaint, the respondent-complainant had reserved her right to file separate complaint regarding incident of 20th January, 2013.

Upon hearing and on perusal of FIR and charge-sheet in this case and decisions cited, I find that the discrepancies in the prosecution case,

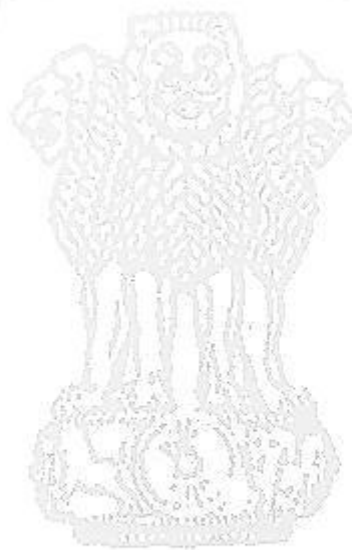
as pointed out by petitioner's counsel, are required to be put to complainant when the pre-charge evidence is recorded. In the facts and circumstances of this case, this Court finds that it would be premature to quash the FIR and charge-sheet, as petitioner has an alternate and efficacious remedy to urge the pleas taken herein before the trial court at the hearing on the point of charge.

This petition is accordingly disposed of with liberty to petitioner to urge the pleas taken herein before the trial court at the charge stage.

MARCH 11, 2019

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**(SUNIL GAUR)
JUDGE**



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