

\$~34

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

+ W.P.(CRL) 1339/2018

DR. SHAMSHER SINGH

..... Petitioner

Through: Ms Rajdipa Behura, Advocate with
Mr Ashray Behura, Mr Philomon
Kani, Ms Hansika Sahu and Ms Neha,
Advocates.

versus

STATE (NCT OF DELHI)& ANR

..... Respondents

Through: Ms Shivani Sharma, Advocate for Ms
Richa Kapoor, ASC for State.
SI Naveen, PS North Rohini.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

27.01.2020

1. The petitioner has filed the present petition, *inter alia*, praying that the FIR No. 262/2013 under Sections 354D/506/509/34 of the IPC, registered with Police Station North Rohini, be quashed.

2. Ms Behura, the learned counsel appearing for the petitioner contends that the said FIR has been filed with the *mala fide* intention of harassing the petitioner and is a counter blast to the complaints filed by the petitioner's wife.

3. The counsel further submits that the FIR in question does not disclose commission of any offence as no specific dates and/or time is indicated. In

addition, she submits that it is apparent that no investigation has been conducted. She states that, in fact, the statement of the complainant under Section 164 of the CrPC was also not be recorded before filing the chargesheet. She points out that the chargesheet was filed indicating that the statement under Section 164 of the CrPC had been recorded, although it is admitted that even at this stage, her statement was not recorded.

4. Mr Behura has also referred to the decision of the Supreme Court in ***State of Karnataka v. L. Muniswamy and Ors.: 1977 (2) SCC 699***. She submitted that in proceedings under Section 482 of the CrPC, it is incumbent upon the court to examine whether the proceedings are an abuse of process of court and that the proceedings should be quashed in order to secure the ends of justice. She submits that this aspect cannot be examined by the concerned court at the time of framing of charges.

5. The contention that the FIR in question *ex facie* does not disclose any offence, is unmerited. Although specific dates are not mentioned, the complainant has narrated a series of events, which does provide information as to the commission of the offence.

6. The question whether there is any material on the basis of which the charge can be framed, is required to be examined by the Court at the time of framing of charges.

7. There is also no cavil that an FIR could be quashed under Section 482 of the CrPC, if it is established that it is an abuse of process of law. However, in the facts and circumstances of this case, this Court is unable to readily accept that the complaint is an abuse of process of court and does not

articulate any genuine grievance of the complainant.

8. The contention that there is no material or investigation, which could establish commission of an offence as alleged, is required to be considered by the Court at the time of framing of charges and it is open for the petitioner to urge all contentions at that stage.

9. The petition is, accordingly, dismissed with the aforesaid observations.

10. It is clarified that all contentions of the petitioner are reserved.

VIBHU BAKHRU, J

JANUARY 27, 2020
RK