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

Date of decision: March 25, 2021

+ CRL.REV.P. 154/2021 & Crl.M.As. 5141-42/2021

MD AZAM ANSARI Petitioner

Through: Md. Azam Ansari &
Md. Asthaq Ansari,
Advocates

Versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Panna Lal Sharma,
Additional Public Prosecutor
for State with SI Manish

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (ORAL)

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1. Petitioner is aggrieved of order dated 08.03.2021 passed by learned Metropolitan Magistrate (MM), vide which petitioner's application under Section 156(3) Cr.P.C. has been dismissed. By this petition, petitioner is seeking quashing of the aforesaid order while seeking a direction to SHO police station Jamia Nagar, Delhi to register an FIR on the basis of police complaint for the offences under Sections 294/341/342/499/500/ 504/506/34 IPC.

2. Notice issued.
3. Mr. Panna Lal Sharma, Additional Public Prosecutor for State, accepts notice.
4. The grounds putforth in the present petition are that as per the contents of the complaint before the learned MM, a *prima facie* case of criminal offences punishable under Sections 294/341/342/499/500/504/506/34 IPC are made out against the persons, namely, *Sahil* and *Rehana* and the matter needs investigation by the police and that for this purpose, registration of FIR is mandatory.
5. Pertinently, petitioner had given a police complaint dated 29.12.2020, at police station Jamia Nagar, Delhi with regard to an incident which allegedly took place on 24.12.2020. It is stated in the complaint that on 24.12.2020, accused *Sahil* and *Rihana Begum* along with another lady *Gulnaz* had suddenly visited his house, though he never liked meeting his clients at the residence but since they had visited his house for the first time, he attended them but warned not to visit his house again. Petitioner had sent a letter to the Mr. Aftab Ali, Advocate representing the accused on the very next day requesting him to direct his clients to not visit his house but

again on 29.12.2020, accused *Sahil* and *Rihana Begum* visited his house and started quarelling with him and shouting using obscene words, as a result of which large public, including neighbours of petitioner, gathered at the entrance of the building of his house. Petitioner has alleged that the accused persons used words such like “*tum bahut baimaan vakil ho*” and “*abhi tere bare mein masjid me elaan karege*”. Both the accused insisted petitioner to withdraw the case from the Hon’ble Supreme Court. Petitioner has alleged that the accused persons had wrongfully restrained him in the street for 30 minutes and prevented him from entering the building.

6. Learned counsel for petitioner submits that lodging of just NCR in the present case by the police is not enough, both on facts and law. He stated that out of the afore-noted offences, Sections 294/341/34 IPC are cognizable offence and the police is bound to register an FIR. To strengthen his arguments, learned counsel relied upon decision of Constitution Bench in ***Lalita Kumari Vs. Govt. of U.P. (2014) 2 SCC 1.***

7. Learned counsel submits that at the time of taking cognizance of the offence or at the time of framing of charge, evidence is not

required to be gone into minutely nor strict implementation of law has to be done and rejection of petitioner's complaint at the initial stage itself is bad in law. He also submitted that while rejecting to invoke Section 294 IPC, the trial court has misdirected itself in explaining the meaning of obscenity, which is not defined in IPC and it has caused great prejudice to the petitioner, and therefore, the impugned order deserves to be set aside.

8. On the other hand, learned Additional Public Prosecutor for State has supported the impugned order and he submits that it does not suffer from any infirmity or illegality and, therefore, this petition is liable to be rejected.

9. I have heard rival contentions raised by counsel representing both the sides and gone through the impugned order and material placed on record.

10. It finds mentioned in the impugned order that petitioner has alleged that the accused persons have uttered the words that "*petitioner is a dishonest lawyer*" and according to petitioner, the said words are covered within the ambit of Section 294 IPC, however, the learned trial court did not find to be in agreement with

this contention and observed that the term ‘obscene’ has not been defined in IPC and the same has been explained to mean and include in a number of cases which are offensive to chastity or modesty and something which suggest lustful, impure, indecent and lewd ideas. The learned trial court also observed that words allegedly spoken by the accused, though could be considered to be offensive, but not covered under the scope and ambit of obscenity and held that commission of offence under Section 294 IPC is not made out.

11. With regard to petitioner’s allegation, that he was illegally wrongfully restrained in the street for 30 minutes by the accused person, the court below has observed that no such allegation was raised by the petitioner in his initial complaint nor in the complaint under Section 156(3) Cr.P.C. and also that petitioner has failed to persuade the court as to how and in what manner he was restrained and prevented from entering into the building.

12. Besides, impugned order also notes the ratio laid down by the Hon’ble Supreme Court in *Lalita Kumari (Supra)*, relied upon by counsel for the petitioner.

13. In the light of above and having regard to the submissions

advanced by learned counsel for the parties, I find force in the findings returned by the trial court, as the same is based upon reasoning of facts and law. Moreover, learned trial court has only dismissed petitioner's application under Section 156(3) Cr.P.C. and has taken cognizance for the offence under Section 200 Cr.P.C. and has not closed his right to lead evidence and establish his case.

14. Finding no merit in this petition, the same is dismissed. Pending application are also disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

MARCH 25, 2021
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