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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 28th November, 2023

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CRL.M.C. 2579/2023, CRL.M.A. 9781/2023 (stay)**NARESH CHANDEL**

..... Petitioner

Through: Mr.Baldev Singh, Advocate with
petitioner in person.

versus

STATE GOVT. OF NCT THROUGH & ANR. RespondentsThrough: Ms.Shubhi Gupta, APP for the State.
SI Vijay Pal Singh, PS C.W.C Nanak
Pura
Dinesh Garg, Advocate for
respondent no.2 and Ms.Anamika
Chandel, Advocates.**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****JUDGMENT****AMIT BANSAL, J. (ORAL)****CRL.M.C. 2579/2023 & CRL.M.A. 9781/2023 (stay)**

1. By way of the present petition, the petitioner impugns the order dated 19th September, 2022, passed by the learned ASJ, whereby the revision petition filed on behalf of the petitioner has been dismissed. The revision petition was filed by the petitioner against the order dated 22nd January, 2020 passed by the learned MM whereby charges under Sections 498A/406 of the Indian Penal Code, 1860 (IPC) were framed against the petitioner.
2. The present case arises out of a matrimonial dispute between the petitioner and respondent no. 2 wherein the respondent no. 2 has filed a



complaint against the petitioner for alleged offences of harassment and cruelty in a marriage subsisting between the parties. Based on the said complaint, FIR No. 4/2016 under Sections 498/406 of the IPC was registered at Police Station CAW Cell, Nanakpura, Delhi. After completion of the investigation, the Chargesheet was filed.

3. *Vide* order dated 22nd January, 2020, the learned Trial Court framed charges against the petitioner for offences under Sections 498A/406 of the Indian Penal Code, 1860 (IPC). The relevant extracts from the said order are set out below: -

“Perusal of the chargesheet and documents shows that marriage certificate dated 07.05.2014 issued by Shree Vaishno Mata Mandir Samiti (Registered), New Moti Nagar, New Delhi-15, duly verified by the IO and bearing the original stamp of Mandir is already on record. There is a photograph of the marriage of the parties printed on the marriage certificate itself. There are several photographs of the marriage function of the parties with family and other relatives. In these circumstances, marriage prima facie exists between the parties and the accused cannot be discharged on this ground. However, accused is at liberty to prove his defence by leading evidence at appropriate stage.

Perusal of documents in the challan shows that there are ingredients to show that accused committed systematic acts of cruelties upon the complainant and retention of Stridhan of complainant by him which are prima facie sufficient to frame charge against the accused for offences u/s 498A IPC and U/s 406 IPC.

Formal charge framed for offence U/s 498A/406 IPC against accused. The charge has been read over and explained to accused. The accused has pleaded not guilty and claimed trial.”

4. The revision petition filed by the petitioner against the aforesaid order



was dismissed by the learned ASJ by making the following observations: -

“The contention whatsoever raised on behalf of revisionist that there was no marriage between the parties, the marriage certificate is a false and fabricated documents etc. can be taken by in as a defence at appropriate stage. All the contention of defence raised on behalf of revisionist are matters of trial and cannot be decided without a proper trial. Judgments cited on behalf of revisionist are also mainly of the stage of final decision concluded after a trial. Hence, keeping in view the facts & circumstances and documents placed on record on behalf of prosecution, Court finds that there is illegality or infirmity in the impugned order passed by Ld. Trial Court vide order dated 21.01.2020 and same is confirmed. The revision petition stands dismissed.”

5. Counsel for the petitioner submits that on the date of the alleged marriage between the petitioner and respondent no.2, both the petitioner as well as the respondent no.2 were already married to different persons and, therefore, no legally valid marriage could have taken place on 22nd February, 2006.

6. In this regard, he draws the attention of the Court to the order granting Decree of Divorce to the respondent no.2 with her former husband, one Mr. Vijay Kumar dated 20th February, 2008 and the order granting Decree of Divorce to the petitioner with his former wife, one Ms. Kavita dated 24th June, 2014.

7. I have heard the counsels for the parties and perused the material on record.

8. In the judgment dated 20th February, 2008 (Annexure P-8) granting divorce to respondent no.2, the date of marriage of respondent no.2 with Mr. Vijay Kumar is noted as 28th March, 2006, which is after the alleged date of



marriage between the petitioner and respondent no.2 herein. Therefore this document cannot be relied upon by the petitioner to contend that the marriage between the petitioner and the respondent no. 2 was not valid.

9. The order on charge passed by the Trial Court duly records that there is enough material on record to show marriage between the petitioner and the respondent no.2. Further, both the orders of the Trial court as well as the Sessions Court correctly state that all the contentions raised by the petitioner are a matter of trial.

10. Further, it is to be noted that a second revision cannot be filed by the petitioner before the High Court in terms of Section 397(3) of the CrPC. The statutory bar of Section 397(3) of the Cr.P.C cannot be overcome by invoking the jurisdiction of this Court for the exercise of its inherent powers under Section 482 of the CrPC. Reference in this regard may be made to the judgment passed by the Supreme Court in *Rajan Kumar Manchanda v. State of Karnataka*, 1990 Supreme Court Cases 132.

11. In any event, when two competent courts below have given concurrent findings after the application of judicial mind, the scope of interference by this Court to exercise inherent powers under Section 482 of the CrPC is limited. The petitioner has the burden to prove that the findings of the two competent courts below are contrary to law and suffer from infirmity. In the present case, the petitioner has failed to make out any grounds for interference by this Court.

12. Accordingly, the present petition is dismissed.

AMIT BANSAL, J.

NOVEMBER 28, 2023/rt