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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 238/2024 CRL.M.A. 941/2024 CRL.M.A. 943/2024**
MANISH AGNIHOTRIPetitioner

Through: Mr. Ravinder Kumar Yadav,
Advocate

versus

STATE OF NCT OF DELHI & ANR.Respondent
Through: Mr. Amit Ahlawat, APP for State with
SI Krishan Varma and SI Vikas
Ragoria, PS: Rajouri Garden.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
% **26.11.2024**

1. This petition has been filed, seeking setting aside of the impugned order, dated 18th December 2023, passed by the ASJ Central District, Tis Hazari Courts, dismissing the Criminal Revision No. 445/2022.
2. The said criminal revision was filed by petitioner, against order dated 25th November 2022, passed by the MM West District, Tis Hazari Courts in CC No. 1268/2022, by which, the Trial Court directed the registration of the FIR against the petitioner.
3. The complaint had been preferred, disclosing the commission of offences under Section 376B/354B/354/354A/509/323 IPC.
4. However due to the inaction, on part of the Police Officials, application



under Section 156(3) Cr.PC was filed. The Action Taken Report, which was in favour of the petitioner, had ignored the fact, that a cognizable offence was made out in the complaint, requiring the registration of an FIR, which involved allegations of sexual offences *albeit* with the husband petitioner. The impugned order traverses the facts and circumstances, and rightly holds, that as per the Supreme Court's decision in, ***Lalita Kumari v. Government of UP & Ors*** (2014) 2 SCC 1, the Magistrate took the right view.

5. The impugned order, in paragraph 14, deals with the issue of Section 376B IPC, which relates to sexual intercourse, by the husband, upon his wife, during separation. It is noted, that there was no decree of separation in the said matter. But, even otherwise, separation which is not judicial, could possibly be covered, in the purview of this section.

6. The revision petition was rightly dismissed.

7. It is also noted that the petitioner has already filed a petition, for quashing of the said FIR, registered, subsequently, being no. 08/2024 at PS Rajouri Garden, under Section 376B IPC. The court *vide* order dated 11th September 2024, had already issued notice. Counsel to respondent no.2, in fact, appears today, and states that he shall be filing a response in the said matter.

8. Accordingly, this petition is dismissed.

9. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 26, 2024/RK/kp