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

+ **CRL.M.C. 271/2023**

GOPAL MALHOTRA

..... Petitioner

Through: Mr. Ashish Sharma, Advocate.

versus

MEENA MALHOTRA

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **09.01.2024**

1. By way of present petition, the petitioner has assailed the order dated 15.12.2021 passed by learned MM, Mahila Court, Rohini, Delhi as well as the order dated 20.08.2022 passed by learned ASJ, North West, Rohini Court vide which the order dated 15.12.2021 was upheld thereby dismissing his application under Section 340 Cr.P.C for initiation of proceedings under Section 195 Cr.PC against the respondent.

2. Notice in the petition was issued on 17.01.2023 however the petitioner has failed to take any steps to ensure that summons are issued.

3. Considering the above, the matter is taken up today itself for consideration.

4. The solitary ground canvassed by the petitioner is that though the respondent had levelled false allegations in her complaint, the petitioner was eventually discharge vide order dated 17.01.2019. A copy of the said order has been placed on record. The relevant extract of the said order reads as under:-

“... I have carefully perused the record. The challan has been filed u/s. 354/354B/506/509/34 IPC against all the accused persons.



In so far as accused Gopal Malhotra is concerned, I find that in the complaint there is no allegations against accused Gopal qua the alleged incident of 01.03.15 and in fact, in her statement u/s. 161 Cr.P.C, the complainant has even mentioned that accused Gopal was not present at the spot on 01.03.15, Further, there is no allegation against accused Gopal in the complaint. The only allegation against accused Gopal is in the statement of the complainant u/s.164 Cr.PC to the effect that he along with the co accused persons tortures the complainant and makes bad gestures to her etc. However, these, allegations are vague as no date and time has been mentioned as to when the accused committed the abovesaid acts. Therefore, accused Gopal is discharged.

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Accordingly, charge is framed against the accused Shyam and Rajesh u/s. 354/509/34 IRC, to which the accused persons pleaded not guilty and claimed trial.

Relist for PE on 02.05.19.”

5. Vide the impugned order, it can be concluded that the petitioner's discharge was on the ground that the complaint lacked substantial details and the allegations against the accused were opined to be vague. At no point of time, did the learned Trial Court opined that the allegations were false. Mere dismissal on ground of vague allegations does not fall within purview of section 340 Cr.P.C.
6. I find no merit in the instant petition and the same is accordingly dismissed.

MANOJ KUMAR OHRI, J

JANUARY 9, 2024/rd