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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 28th August, 2018

+ CRL.M.C. 62/2018

NARENDER KUMAR SINGH

..... Petitioner

Through: Mr. Vijay Kinger, Mr. Sanjay Verma, Mr. Jitender Kumar and Ms. Roopa Nagpal, Advocates

versus

THE STATE (GOVT OF NCT OF DELHI

& ANR

.... Respondents

Through: Mr. Ravi Nayak, APP for the State with SI Lavkesh Kumar, PS Preet Vihar

Mr. Rajeshwar Singh, Adv. for the R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing prosecution in the criminal case registered on the basis of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.PC) presented on conclusion of investigation into first information report (FIR) no.221/2008 of police station Preet Vihar. After compliance with the provision of Section 207 Cr. PC, the Additional Chief Metropolitan Magistrate (ACMM) considered the question of charge. By order dated 24.01.2017, she

found no grounds to put the petitioner on trial on the charge for offences under Section 201 of the Indian Penal Code, 1860 (IPC) or Section 65 of Information Technology Act, 2000. She, however, found grounds for charge to be framed under Section 67 of Information Technology Act, 2000, the gravamen whereof as revealed by the formal charge framed on 24.07.2017 being that on certain specified dates, he had transmitted, published or sent several obscene or lascivious e-mails to the complainant by using his office computer and personal e-mail which was delivered to the complainant on her personal e-mail.

2. The petitioner feeling aggrieved had challenged the above-said order of the ACMM before the court of Sessions by Criminal Revision no.247/2017. The petition was dismissed by the revisional court by order dated 02.11.2017. The petition at hand was filed invoking Section 482 Cr. PC to bring yet another challenge to the said consistent orders of the two courts below.

3. Against the above backdrop, question arose as to whether the petitioner having availed of the remedy of revision should be allowed to have recourse to the petition at hand as a substitute for virtually a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C.

4. This Court in an almost similar fact-situation, taking note of the decisions of the Supreme Court reported as *Krishnan Vs. Krishnaveni*, (1997) 4 SCC 241; *Rajinder Prasad Vs. Bashir*, (2001) 8 SCC 522 and *Kailash Verma vs. Punjab State Civil Supplies Corporation & Anr.*,

(2005) 2 SCC 571 and following similar view taken by a learned single Judge of this Court in *Surender Kumar Jain vs. State & Anr.*, *ILR (2012) 3 Del 99* in absence of a special case being made out has earlier declined to interfere by the ruling (dated 03.07.2018) in *CrI.M.C. 164/2018 Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of its extraordinary jurisdiction under Section 482 Cr.P.C.

5. There are no special circumstances made out in the case at hand for the revisional court's view to be disturbed.

6. The petition is dismissed.

R.K.GAUBA, J.

AUGUST 28, 2018

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