



2024:DHC:8712-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 6th November, 2024*+ **CRL.M.C. 4315/2023, CRL.M.As. 1876/2024, 1877/2024, 8341/2024, 12275/2024, 12276/2024, 17058/2024, 21710/2024 & 21711/2024**

SANJEEV KUMAR

.....Petitioner

Through: Petitioner in person.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Aman Usman, APP.

Mr. Varun Goswami, *Amicus Curiae*
with Mr. Sahil Agarwal & Mr.
Vansmani Tripathi. Advs. (M:
8000166689)**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE AMIT SHARMA****JUDGMENT****PRATHIBA M. SINGH, J.**

1. This hearing has been done through hybrid mode.
2. The present **CRL. MC. 4315/2023** filed by the Petitioner - Mr. Sanjeev Kumar under Section 482 of CrPC, arises out of a complaint being **CT No. 2592/2018** filed by the Petitioner before the Id. CMM, South, Saket Courts, against his wife - Ms. Alka Singh and her family including her father- Mr. Viri Singh, her mother - Ms. Amar Kaur, her brother - Mr. Akhilesh Singh and her brother-in-law - Mr. Praveen Kumar.
3. The allegation in the said complaint was that the Petitioner was married to Ms. Alka Singh on 19th April, 2017, which was an arranged marriage. The various factors, which led to matrimonial discord between the Petitioner and

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his wife are stated in this complaint. It is alleged that the Petitioner's wife got pregnant sometime in the month of May, 2017, and that the Petitioner and his family looked after her wellbeing. Further, it is alleged that upon becoming aware of the said pregnancy, the family of his wife pressurised her to abort the same. In this regard, it is stated that the Petitioner had made a PCR call to P.S. Hauz Khas on 14th June, 2017, whereby the Petitioner had alleged that his father-in-law was taking his wife to undergo an abortion. The enquiry was conducted by the concerned police officer in the said matter and it was closed.

4. It is also alleged by the Petitioner that, thereafter, on 22nd July, 2017, the family of his wife visited his home and quarrelled with him. On the said date the Petitioner's wife is stated to have left her matrimonial home along with substantial cash and jewellery. According to the Petitioner, the wife was three months' pregnant at the time when she left her matrimonial home and later, she was forced to abort her pregnancy by her family members.

5. It is also the case of the Petitioner that he had filed a complaint on 27th December, 2017 at P.S. Hauz Khas, however, no action had been taken in respect of the same. Thus, the Petitioner preferred the aforesaid complaint under Section 200 of CrPC alleging offences under Sections 312, 313, 379, 406, 419, 506, 34/120B of the Indian Penal Code (IPC). The Petitioner prayed for a direction for registration of FIR under Section 156(3) Cr.P.C. and investigation in respect of the aforesaid allegations.

6. It is noted that on 22nd July, 2017, the Petitioner's wife had also submitted a written complaint at P.S. Hauz Khas. The crux of the said complaint is that soon after their marriage the Petitioner was making dowry demands including demand for a car, etc. It is alleged that various threats were levelled by the Petitioner against her and her family. Further, it is also alleged



that on 22nd July, 2017, when the parents of the wife were visiting her matrimonial home, the Petitioner abused and physically attacked his wife and her family. Thereafter, the Petitioner's wife prayed for assistance from the police authorities against the Petitioner as she was under fear and apprehension that the Petitioner may further cause her and her family mental or physical harm.

7. The aforesaid complaint of the Petitioner was considered by the concerned Id. Metropolitan Magistrate on several dates and an Action Taken Report (ATR) was called for from the concerned police authorities. In the ATR dated 11th April, 2018 filed by SHO, P.S. Hauz Khas, it is stated that both the complaints of the Petitioner and his wife have been sent to CAW Cell for further inquiry. Further, the complaint of the Petitioner *qua* allegation of forceful abortion of his wife, is stated to have been transferred to SSP Ghaziabad, Uttar Pradesh (U.P.) for further inquiry. It is also stated in the said ATR that the wife of the Petitioner has filed a complaint at P.S. Indirapuram, Ghaziabad (U.P.) and that in respect of the same a FIR being ***FIR No. 1769/2017*** has been registered at the said police station for offences under Section 498A/323/506 IPC.

8. The complaint was, however, dismissed *vide* order dated 3rd January, 2023, by the concerned Id. Metropolitan Magistrate. The finding of the Id. Metropolitan Magistrate was that there was no material on record to proceed against the accused persons. The Id. Metropolitan Magistrate also records that there was no evidence on record to show that the accused persons *i.e.*, the family of the wife had caused her to have a miscarriage. The findings of the Id. Metropolitan Magistrate in the order dated 3rd January, 2023 are as under:



“Section 312 IPC deals with punishment for voluntarily causing miscarriage of a woman with child, if such miscarriage be not caused in good faith for the purpose of saving life of the woman. Under the said section a women who causes herself to miscarry is also liable for punishment. Section 313 IPC prescribes punishment for miscarriage without woman's consent whether the woman is quick with the child or not. Under Section 312 & 313 IPC those termination of pregnancies are punishable which are not covered under the ambit of Medical Termination of Pregnancy Act.

There is nothing on record to show that proposed accused persons had caused the miscarriage of the wife of complainant (proposed accused no.1). Though complainant had alleged that all the proposed accused persons had instigated his wife to terminate the pregnancy but from the mere averments it cannot be assumed that that accused persons had caused miscarriage. Even assuming that proposed accused persons may have threatened the complainant to miscarriage but complainant has failed to bring any document on record or evidence on record to prima-facie to assume that the proposed accused persons had, “voluntarily caused the miscarriage”. No medical documents are on record regarding the termination of pregnancy.

In his testimony, complainant had nowhere deposed that proposed accused persons had committed the theft of dowry articles or other any other articles of the complainant. Though in his pleadings, complainant had mentioned that proposed accused no. 2 along with some other relatives had taken the gold and diamond jeweleries worth of Rs. 8 lakhs and Rs. 85,000/- cash force-ably but no such facts had been deposed in the testimony. Further, no documents had been filed by the



complainant in support of the allegations. No jewelery bill or other document is filed in this regard. Further, ingredients of criminal mis-appropriation, cheating and criminal intimidation are also missing.

Thus, considering the entire facts and circumstances of case, there is no material on record to proceed against proposed accused persons U/s 312/313/379/406/419/506/34 r/w section 120B IPC. Thus, the present complaint is dismissed u/s 203 Cr.P.C.”

9. The said order of the Id. Metropolitan Magistrate was challenged by the Petitioner before the Id. Sessions Judge, South, Saket Court, by way of a revision being ***Criminal Revision No. 45/2023***. The Id. Sessions Judge *vide* order dated 31st March, 2023, has upheld the aforesaid order of the Id. Metropolitan Magistrate and accordingly, the revision was also dismissed. The relevant findings of the Id. Sessions Judge are set out below:

“7. Evidently, parties are into various litigations inter se arising out of matrimonial discord. Respondent no. 2/ wife and her family is living in Ghaziabad where, she has lodged FIR against the revisionist/ complainant and revisionist/ complainant has lodged various complaints against respondent no. 2/ wife and her parents in Delhi. The present is also one such, in the series of attempts by revisionist/ complainant, who is a practicing Advocate, to seek summoning of his wife and in-laws.

8. The only allegation against respondents no. 3 to 6 is that on being pressurized by them, respondent no.2 aborted the child. However, there is no evidence of such coercion. And there was no occasion for the revisionist/ complainant to have personal knowledge of such coercion, if any and so depose. There of course, is no record of unauthorized medical termination of



pregnancy or even proof thereof, which is available with the revisionist/ complainant; to allege that there was no risk to the unborn child or to the mother if, the pregnancy had proceeded to its full term.”

10. The Petitioner has challenged the said order dated 31st March, 2023 passed by the Id. Sessions Judge in the present criminal miscellaneous petition.

11. The Court has heard the Petitioner, who is present in-person as also the Id. APP for the State. The Petitioner, during the course of his submissions, has relied upon the decision of the Punjab & Haryana High Court in ***Aman Mahajan v. State of Union, 2018 SCC OnLine P&H 6340***, wherein it has been held as under:

*“7. Chapter 19 of Cr.P.C. deals with trial of warrant cases by Magistrates. Section 239 Cr.P.C. deals with an eventuality when an accused shall be discharged. It provides that if upon considering the police report and documents sent with it under Section 173 Cr.P.C. and making such examination, if any of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity considers the charge to be groundless he shall discharge the accused and record his reasons for so doing whereas Section 240 Cr.P.C. deals with framing of charge directing that if on such consideration, examination if any and hearing, the Magistrate is of the opinion that there is ground for assuming that the accused has committed an offence triable under this chapter which such Magistrate is competent to try and which under his influence could be adequately punished by him, he shall frame in writing a charge against the accused. **The Magistrate at the stage of framing charge is not to see as to whether the trial***



shall end in conviction or acquittal. He is just to satisfy himself that sufficient material is there on the record for presuming that accused had committed an offence. As per settled law the charge can be framed on the basis of strong suspicion even. Section 482 Cr.P.C. deals with saving of inherent powers of High Court. It provides that nothing in the Court shall be deemed to limit or effect the inherent powers of High Court to make such orders as may be necessary to give effect to any order under this Court or to prevent abuse of process of any Court or otherwise to secure the ends of justice. The law is well settled that while exercising such jurisdiction High Court is not to enter into probe regarding authenticity and legality of the evidence available on record. ...”

12. The aforesaid observations of the Punjab & Haryana High Court would not come to the aid of the Petitioner’s case, since a perusal of the impugned orders passed by the Id. Metropolitan Magistrate and the Id. Sessions Judge would show that all the materials placed on record have been duly considered by the said Courts. After due consideration of the said records, the Courts have concluded that there is no sufficient material to suggest that the accused persons have committed any offense.

13. The Court has perused the orders passed by the Id. Metropolitan Magistrate and the Id. Sessions Judge and it is clear that there is nothing on record to prove that the wife of the Petitioner had undergone abortion due to coercion by her parents. In fact, the Petitioner’s wife herself had various grievances against the Petitioner as is clear from the complaint filed by her on 22nd July, 2017 with P.S. Hauz Khas and the **FIR No. 1769/2017** registered at P.S. Indirapuram, Ghaziabad.



14. In the complaint dated 22nd July, 2017 made by the wife of the Petitioner various allegations have been made against the Petitioner as have been noted above. The wife has alleged *inter alia* that there were matrimonial disputes between the Parties soon after their marriage and that the Petitioner physically and mentally assaulted her. The wife has also alleged that the Petitioner had raised demands for dowry. The family of the wife have also been threatened by the Petitioner as per the said complaint.

15. In addition, a perusal of the records annexed with the present petition, in particular **Annexure P-4**, would show that on 14th June, 2017, the Petitioner had made a similar complaint against the wife's parents alleging that his wife was being taken for abortion by them. However, enquiries were duly conducted by the concerned police authorities and it was observed that the wife's parents were not at the spot and the same was a family dispute.

16. Further, in the ATR dated 11th April, 2018, filed by SHO, P.S. Hauz Khas, before the Id. Metropolitan Magistrate in the aforesaid complaint of the Petitioner, the concerned police authority had conducted inquiries and recorded that the wife has already registered the **FIR No. 1769/2017** at P.S. Indirapuram, Ghaziabad under Sections 498A/323/506 IPC against the Petitioner. In view of the same, the concerned police has concluded that the no cognizable offense is made out in the said case.

17. Considering the aforesaid, the Court is convinced that no offences are made out against the accused persons as alleged by the Petitioner and that the complaint being **CT No. 2592/2018** has been correctly closed by the Id. Metropolitan Magistrate. It is also a well-settled principle of law that a second revision petition is not maintainable under section 397(3) of the Cr.P.C. and the scope of challenge of two concurrent findings under Section 482 of the



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Cr.P.C., is limited. For this Court to exercise its inherent powers under Section 482 Cr.P.C. in interfering with the concurrent findings of the two Courts below, it has to be demonstrated that the illegality in the said orders go to the very root of the matter and therefore are not sustainable in law.

18. Moreover, the Petitioner is a habitual litigant who has filed several complaints against various persons including his wife, his in-laws, close associates of his wife, police officials, judicial officers, Judges of this Court etc. Today, he has also been convicted of criminal contempt and sentenced to four months of simple imprisonment in **CONT. CAS.(Crl) 5/2024**. The Petitioner has clearly converted a matrimonial dispute into multifarious criminal complaints, criminal cases, petitions, revisions, writs etc., occupying substantial judicial time and resources. The present case is another manifestation of the same.

19. In view of the above, no interference is called for in the present petition. The petition is, accordingly, dismissed.

20. Pending applications, if any, are also dismissed.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

NOVEMBER 06, 2024/dk/gs/ms/pr
(corrected & released on 11th November, 2024)