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

+ **CRL.REV.P. 1296/2024, CRL.M.A. 34600/2024**

AMIT GOEL

.....Petitioner

Through: Mr. Varun Dhingra, Ms. Pooja Aggarwal, Advs.

versus

STATE GOVT. OF NCT OF DELHI AND ANRRespondents

Through: Ms. Kiran Bairwa, APP for State and
SI Pawan Kumar, PS Mukherjee
Nagar.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

20.11.2024

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1. The present petition has been filed under Section 401 Cr.P.C. / 442 BNSS for setting aside the order dated 09.07.2024 passed by Ld. Judicial Magistrate First Class (Manila Court) -02 , North District, Rohini Courts, Delhi in Cr. Case no. 2831/2017 titled "*State versus Amit*" in case FIR No. 920/2014 under Section 498A/406 IPC registered at PS Mukherjee Nagar, Delhi vide which the Ld. Metropolitan Magistrate has framed the charges against the petitioner under Section 498A/406 IPC.
2. Learned counsel for the petitioner submits that the Ld. Metropolitan Magistrate has not given even an iota of reason for reaching to the conclusion that the offence under Section 406/498A is made out.
3. Issue notice.



4. Learned APP for the State has accepted the notice.
5. The order dated 09.07.2024 which is under challenge is as under:

“No arguments on charge have been advanced on behalf of accused.

Prima facie, a case under section 498A/406 IPC is made out against the accused Amit. Charge is framed accordingly to which the accused pleaded not guilty and claimed trial.

Put up for PE on 22.10.2024. Let summons be issued to the complainant through SHO concerned for NDOH.”
6. The bare perusal of this makes it clear that no arguments were advanced on behalf of the petitioner and the Ld. Trial Court simply observed that a prima facie a case under Section 406/498A IPC is made out against the petitioner.
7. Section 240 of the Cr.P.C. reads as under:

“240. Framing of charge.

(1).If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2). The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.”
8. Perusal of Section 240 Cr.P.C. makes it clear that if the Ld. Metropolitan Magistrate upon consideration, examination and hearing is of the opinion that there are grounds for presuming that the accused has committed an offence, he shall frame in writing a charge against



the accused. The framing of charge is not a mechanical exercise. It is correct that at the stage of framing of charge Ld. Metropolitan Magistrate is not required to pass a detailed order but that does not mean that the Ld. Metropolitan Magistrate during the hearing of the charge, which is an important stage at the beginning of the trial will not give even an iota of reason. The impugned order does not even make it clear if the Ld. Metropolitan Magistrate has considered and examined the matter at all rather the order states that the petitioner has not even been heard.

9. The impugned order dated 09.07.2024 is totally devoid of merit and is deprecated. The order cannot sustain in the eyes of law. Hence, the same is set aside. The matter is remanded back to the Ld. Metropolitan Magistrate. Ld. Trial Court shall consider the matter afresh on charge and shall pass a fresh order in accordance with the law.
10. The petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 20, 2024/AR/SMG...