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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 9476/2024 CRL.M.A. 36374/2024 CRL.M.A. 36384/2024
AJIT SINGH AND ORSPetitioner

Through: Mr. Nitish K Singh & Mr. Amit K
Thakur, Advocates

versus

THE STATE OF NCT DELHI AND ANRRespondents

Through: Mr. Digam Singh Dagar, APP for
State with SI Geetam Singh PS
Badarpur with SI Jitendra Kumar, Sp.
Cell.

Mr. Akash Nagar and Ms. Akanksha
Chauhan, Advs. for R-2 (thru VC)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
03.12.2024

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1. This petition has been filed against order dated 6th February 2024 taking cognizance in proceeding in FIR No.420/2021 registered at P.S Badarpur under Sections 354/498A/406/34 IPC.
2. Petitioners herein have been placed in Column 12 of the charge sheet. However, it is noted that in the impugned order, by a summary statement, the Metropolitan Magistrate has taken a view at the stage of cognizance that *“perusal of the main complaint and relevant documents shows that there are sufficient allegations of cruelty and criminal breach of trust”*. Accordingly, Metropolitan Magistrate notes that a *prima facie* case against accused-petitioners is made out and cognizance is taken for offences



punishable under Sections 354/498A/406/34 IPC.

3. Counsel for petitioners states that FIR was registered at the behest of complainant after 18 years of her marriage with petitioner no.1.

4. Petitioner nos. 5, 6 and 7 are sisters of Ajit Singh, who were married in 2000, 2003 and 2006 respectively and left their parental home pursuant to their marriages. Further, petitioner no.3 is the 74-year-old father of petitioner no.1, who is a retired government servant. Petitioner no.4 is the 67-year-old mother of petitioner no.1, who is residing in Bihar. Petitioner no.2 is the brother of petitioner no.1.

5. In FIR, respondent no.2/complainant has impleaded petitioner nos. 2 to 7 along with petitioner no.1, as well as Nibha Singh, wife of petitioner no.2 and Rakesh Pandey, husband of petitioner no.5.

6. Charge sheet was filed against petitioner no.1 to 4, however, petitioner nos. 5 to 7, Nibha Singh and Rakesh Pandey have been kept in Column 12 of charge sheet.

7. Counsel for petitioners raises an issue regarding cognizance taken against petitioner nos. 5 to 7, who are sisters of petitioner no.1 and are not even present in their parental home pursuant to their marriages and petitioner nos. 3 and 4, parents of petitioner no.1, who are senior citizens.

8. Needless to state, all the pleas of these petitioners can be addressed and assessed before the Trial Court at the stage of arguments on charge. It is made clear that the Trial Court will not be influenced by '*prima facie*' observations/conclusions which have been drawn out in the impugned order and the Metropolitan Magistrate shall assess the materials at the stage of arguments, dispassionately and after affording a hearing to the petitioners.

9. In these facts and circumstances, as noted above, petitioner nos. 3 to 7 may be exempted from physical appearance before the Trial Court on the



next date of hearing, and may be allowed to be present through VC, considering that they are not residents of Delhi. Any subsequent exemption may be obtained from the Trial Court.

10. Petition is disposed of with these observations and directions. Pending applications are disposed of as infructuous.

11. Copy of order be given *dasti*.

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

ANISH DAYAL, J

DECEMBER 3, 2024/sm/tk