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

% *Date of decision: 27th February, 2025*

+ **CRL.M.C. 671/2021**

MOHAN LAL

A-301, Meghdoot Apartments, Plot -19,
Sector-7, Dwarka, Delhi - 110075

.....Petitioner

Through: Petitioner in person.

Versus

1. **STATE OF G.N.C.T. OF DELHI**

Through Chief Secretary, G.N.C.T. of Delhi,
5th Level, Delhi Secretariat, Delhi – 110002.

2. **MANJU AGGARWAL**

W/o Sh. Bal Kishan Aggarwal
IInd Floor, 70-Tagore Park (near Model Town),
Delhi-110009.

3. **BAL KISHAN AGGARWAL**

S/o Late Sh. Sat Narain Aggarwal,
IInd Floor, 70-Tagore Park (Near Model Town),
Delhi-110009.

4. **BHARAT AGGARWAL**

S/o Sh. Bal Kishan Aggarwal
IInd Floor, 70-Tagore Park (near Model Town),
Delhi-110009.

.....Respondents

Through: Mr. Nawal Kishore Jha, Ld. APP for
the State with SI Sanjeeta P.S.
Mukherjee Nagar.

Mr. Pankaj Kumar Ranjan, Advocate
for R-2 to 4.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)



1. Petition under Section 482 of the *Code of Criminal Procedure, 1973* ('Cr.P.C' *hereinafter*) read with Article 227 of the *Constitution of India* has been filed to challenge the Order dated 19.12.2019 of learned ASJ upholding the Order of the learned ACMM dated 14.05.2018 whereby the Complaint Case No.CC 1925/2017 for taking cognizance of the offence under Section 182/211/107/34 of the *Indian Penal Code, 1860* ('IPC' *hereinafter*), had been dismissed.
2. *Briefly stated*, the Respondent No.2-Manju Aggarwal is the mother-in-law of Priyanka Aggarwal who is the daughter of the Petitioner/Complainant-Mohan Lal. On 17.02.2006, Sandeep Aggarwal, son of Respondent No.2-Manju Aggarwal in the company of his mother and many other persons, sent Priyanka Aggarwal to the Complainant and his wife, by making a promise that within ten days he would take her back to the matrimonial home. Instead of taking her back, he filed a Case against Priyanka Aggarwal in Tis Hazari Courts, which was dismissed in default on 15.11.2007.
3. On 18.11.2008, the Complainant-Mohan Lal was going towards House of the Advocate in Tagore Park and as he passed by the house of the Respondent, he was forcibly held by the younger son of Manju Aggarwal, who along with others, manhandled him and tore off the pocket of his shirt. The Police was called and both the parties were taken to Police Station Mukherjee Nagar, where the Respondent No. 2 in consultation with others, knowingly gave false information to the SHO to use his lawful powers against the Petitioner. The Complainant Shri Mohan Lal as well as the



Respondent No. 2 were got medically examined at HR Hospital. The pieces of his shirt were handed over by the Petitioner and he had also given the details about the offence committed upon him. However, since the Petitioner/Complainant did not want to disturb the matrimonial relationship, he did not take any action against the Respondents or approach any Court.

4. However, the Respondent made a false Complaint against the Petitioner under Section 323/448/452/501/506 IPC. On the Application under Section 156(3) Cr.P.C, FIR was directed to be registered against the Petitioner by the Order of the Court. Consequently, FIR was registered and after investigations, the Chargesheet has been filed.

5. The Petitioner thus, filed the *Complaint Case No.CC 1925/2017* for taking cognizance of the offence under Section 182/211/107/34 IPC, on the assertions that in view of the statements of the independent witnesses, it is clear that an offence under Section 182/211/107/34 IPC has been committed by the Respondents.

6. In support of his Complaint, he examined himself as CW1 and proved various documents.

7. The learned ACMM observed that a similar Complaint on same facts dated 11.05.2018 had been filed earlier before learned CMM, Central and was assigned to learned M.M who declined to take cognizance of the offence under Section 211 IPC by observing that it is only after the conclusion of the trial in the cross FIR No.302/2008 that it can be ascertained that any offence under Section 211 IPC is made out.

8. A Revision Petition bearing no. 167/2017 was filed against the Order



of the learned M.M which was dismissed on 24.04.2017 with liberty to the Petitioner to file a appropriate Application in accordance with law, in the light of the findings of the learned M.M.

9. The learned M.M., while dismissing this second Complaint 1925/2017, filed on same facts, observed that the earlier Complaint was on identical facts which already stands disposed of. The only change in the second Complaint was that additional offence under Section 182/107/34 IPC were claimed to have also been committed. In so far as Section 107 and 34 IPC were concerned, they were not substantive offences. Furthermore, without there being any findings of the Court about the averments made in the Complaint being false, no offence under Section 211 IPC can be said to have been committed. Consequently, the Complaint of the Petitioner was dismissed.

10. The Order was assailed by Revision Petition No.122/2018 before the learned ASJ, who concurred with the observations of learned M.M. In addition, it was observed that for an offence under Section 211 IPC, a Complaint under Section 195(b)(i) Cr.P.C would be required and even if it is held that there is no bar under Section 195(b)(i) Cr.P.C, then too there were no grounds for proceeding with the Complaint and that it had been rightly dismissed at the threshold by the learned M.M. The Order of the learned M.M was thus, upheld.

11. Aggrieved by the said Order, the present Petition has been filed, wherein the impugned Order has been challenged on the *grounds* :

(a) that there is no provision of law to dismiss the present



Complaint of the Petitioner on account of pendency of an earlier connected case against him;

(b) that the Complaint under Section 200 Cr.P.C can be dismissed only when there is no sufficient ground to proceed, but the impugned Order does not state that no such sufficient grounds exist;

(c) that there is no provision of law which states that cognizance of offence under Section 182 and 211 IPC can be taken only after conclusion of proceedings in respect of the relevant false Application or Complaint Case. Reliance has been placed on R.K. Selvarajan Chettiar vs. S. Murugavel decided by Madras High Court on 22.10.2002, M.L. Sethi vs. R.P. Kapur AIR 1967 SC 528, State of M.P. vs. Mishrilal (Dead) & Ors. decided by the Apex Court on 02.04.2003, wherein it was observed that the cross cases must be tried together.

Furthermore, in Central Bureau of Investigation vs. M. Sivamani, Criminal Appeal Nos. 1261-1262 of 2017 arising out of SLP (Crl.) No.2786-2787 of 2017 the Apex Court observed that “*bar of Section 195 Cr.P.C is not intended to take away the remedy against a crime but is only to protect the innocent persons against false or frivolous proceedings by a private person*”;

(d) that the supplementary Chargesheet under Section 173(8) Cr.P.C. concludes that there is no sufficient evidence against the Petitioner in the Chargesheet in the FIR No. 302/2008;



- (e) that the learned M.M on 28.08.2008 emphatically ruled out that Section 354 IPC was not made out;
- (f) that the ex-parte investigations conducted by the Respondent No.1 did not find the allegations of Section 448, 452, 500 and 501 IPC against the Petitioner as true;
- (g) that no ingredients of the offences which have been alleged against the Petitioner, have been proved;
- (h) that no neutral evidence like case property or MLC, etc. has been filed against the Petitioner;
- (i) that First Information dated 18.11.2007 whereby the Petitioner has told that his shirt was torn and his medical examination was subsequently conducted and five Status Reports had been filed by the Police, all reflect the falsehood of the FIR;
- (j) the Respondent No.2's Complaint dated 18.11.2007 made to the Police and Application are at variance from her own Complaint dated 18.11.2007 made to the Police and the telephonic information given by Respondent No.4 to the Police;
- (k) that no investigation has been made in the allegations of Respondent No.2 of demand of bribery by the Police;
- (l) that Respondent No. 1 has not even investigation Respondent No.4 who had given false information to the Police; and
- (m) that no investigation has been made in the legality or otherwise of operating a Committee by a witness and the



Respondent No.2 being its member.

12. It is further alleged that because the parties convenience lies in simultaneous proceedings of their case under reference in jurisdictional Court, no prejudice to either party would have been caused if the Complaint case had proceeded independently and simultaneously with the case of Respondent No.1. Moreover, the Order of the learned ASJ is illegal as the Respondent No.2 was given a hearing without she having been summoned as an accused by the Court. Reliance has been placed on Iris Computers Limited vs. Asker InfoTech Private Limited 2012 CRI. L. J. (NOC) 575 (KAR.) in this regard.

13. In the end, the Petitioner asserts that he is 63 years old and the case is at the stage of charge. It would take its own time and still there would be no finding in respect of Petitioner's submissions. Hence, the present Petition has been filed with the prayer to set aside the Order dated 19.12.2019 of learned ASJ.

14. ***Written arguments have been filed on behalf of Respondent No.2 to 4*** wherein it was stated that Respondent No.2 Manju Aggarwal's son Sandeep Aggarwal was married to Priyanka Aggarwal daughter of the Petitioner. It is further submitted that FIR No.302/2008 was registered in respect of the incident which happened on 18.11.2007. There were several rounds of litigation undertaken by the Petitioner and he challenged the Order directing framing of Charges which was dismissed by Ld. ASJ.

15. A Criminal M.C.No.1380/2016 was filed by the Petitioner against the Order of the learned ASJ and this Court directed the State to further



investigate the matter and file a Supplementary Chargesheet after recording the statement of Mohd. Khalil. However, this Court declined to interfere in the Order directing framing of Charge.

16. Pursuant to the directions of this Court, the I.O recorded the statement of Mohd. Khalil Ansari and filed the same along with the Supplementary Chargesheet which was tagged with FIR No.302/2008. He had also challenged the Supplementary Chargesheet filed under Section 173(8) Cr.P.C. which eventually was dismissed and learned ASJ upheld the order of the learned M.M directing framing of the Charge.

17. Before filing the Supplementary Chargesheet, *Complaint Case No.3968/2017* was filed against Respondent No.2, wherein prosecution was sought under Section 211 Cr.P.C claiming that in the Chargesheet the offence under Section 448/452 IPC was not made out, but the Complaint was dismissed *vide* Order dated 31.03.2017 by observing that a private Complaint cannot be entertained without sanction of the concerned Court under Section 195(i)(b) Cr.P.C. The Revision Petition filed against the said Order also got dismissed.

18. It is submitted that the second Complaint Case No.1925/2017 on the same facts on which earlier Complaint No.3968/2017 is not maintainable, which has been rightly dismissed. Reliance has been placed on Pramatha Nath Talukdar vs. Saroj Ranjan Sarkar 1962 AIR 876 and M.L. Sethi vs. R.P. Kapur & Anr, 1967 AIR 528.

19. In detail, it is submitted that there is clear bar under Section 195 Cr.P.C for taking cognizance of any offence under Section 211 IPC. The



second Complaint was on identical facts which had been filed only with a view to harass or pressurize the Respondents. In fact, the Petitioner is liable to be prosecuted for falsely impleading Bal Krishan Aggarwal and Bharat Aggarwal as Respondent No.3 and 4 and they reserve their right to file Civil Defamation case against the Petitioner.

20. In the *Status Report dated 13.07.2021 filed by the State* it is submitted that Charges under Section 354/323/506(1) IPC has been framed against the Petitioner on 17.03.2015 which had been challenged before this Court which has disposed of the Petition on 11.01.2017 by refusing to amend or interfere in the Order on Charge dated 17.03.2015.

21. A *further Status Report* has been filed on behalf of the State narrating the filing of Chargesheet and supplementary Chargesheet in FIR No.302/2008 and has stated that the Order of directing framing of Charge under Section 354/323/506(1) IPC, has not been interfered by this Court.

22. **Submissions heard and record perused.**

23. Essentially, there is matrimonial discord between the daughter of the Petitioner and Sandeep Aggarwal son of Respondent No.2 and 3. An untoward incident happened on 18.11.2017 in regard of which FIR No.302/2008 under Section 354/323/506 IPC got registered on the directions of the learned M.M under Section 156(3) Cr.P.C.

24. The Petitioner herein has claimed that on the said date, he had been beaten up by the Respondents along with other persons and that he along with the Respondent No.2 Manju Aggarwal were taken to the Police Station and his MLC was got prepared, but he refrained from taking any action



because of his daughter been married to Sandeep Aggarwal.

25. However, he also filed a *Complaint Case No. 3968/2017* alleging that the offence under Section 211 Cr.P.C has been committed, but the Complaint was dismissed by observing that no such offence is made out and also because of the bar under Section 195 Cr.P.C. This Order was upheld by the learned ASJ.

26. In the meanwhile the Petitioner had been moving Applications for further investigations which eventually got allowed by the Order dated 17.03.2015 of this Court whereby further directions were given for recording of Statement of Mohd. Khalil, though Order on framing of Charge under Section 354/323/506 IPC was not disturbed. In compliance thereof, the statement of Mohd. Khalil was recorded which was filed by way of supplementary Chargesheet.

27. In the interim, *second Complaint No.1925/2017* was filed by the Petitioner essentially on the same facts, but also added Sections 107/182/211/34 IPC. Learned M.M rightly observed that unless there is any finding of the Court that false statement has been made by a person in the Court proceedings, no offence under Section 211 Cr.P.C is made out. Even otherwise, it was observed that from the Statements it could not be inferred that there is any false evidence.

28. The learned M.M also observed that this second Complaint was identical to the earlier Complaint and the second Complaint on same facts was not maintainable in view of the judgment of Poonam Chand Jain v. Fazru AIR 2010 SC 659. No new circumstances or facts were brought on



record which justifies the filing of the second Complaint after the dismissal of the first Complaint on similar facts.

29. The Petitioner in the present Petition has raised various grounds as had been stated above to challenge the incident on which the FIR No.302/2008 was registered. However, the challenge to the FIR cannot be raised by way of the Complaint, but the same has to be adjudicated in the said FIR. Furthermore, it has been rightly held that the offence under Section 211 Cr.P.C. can be attracted after any such findings are recorded while adjudicating the FIR No.302/2008. Further, it has been rightly observed that where offenses under Section 107 and 34 IPC were concerned, they were not substantive offences.

30. There is no infirmity in the Order of the learned ASJ. The present petition is without merit and is hereby, dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 27, 2025

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