

(2018) 10 DEL CK 0555

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 2348 Of 2016

Prateek Kumar

APPELLANT

Vs

State Of Nct Of Delhi & Ors

RESPONDENT

Date of Decision : 25-10-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 156(3), 200, 397(3), 482
Indian Penal Code, 1860 — Section 34, 120B, 380, 403, 406, 420, 497, 498

Citation : (2018) 10 DEL CK 0555

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Advocate : Gaurav Singh, Amit Ahlawat, G.A. Khan

Final Decision : Dismissed

Judgement

1. The petitioner had filed a criminal complaint in the court of Additional Chief Metropolitan Magistrate seeking criminal action against the second to fourth respondents seeking direction to the police for investigation under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.). It appears from the pleadings that the second respondent is his wife, they having been married on 10.12.2012, the marital relationship having gone into rough weather, he, inter alia, alleging that the second respondent had been in an illicit relationship with the third respondent prior to the marriage of the parties. He made allegations of certain acts of commission or omission having been indulged in by the said private party respondents, such acts constituting offences punishable under Sections 380/403/406/420/497/498/120-B/34 of the Indian Penal Code, 1860 (IPC).
2. The Additional Chief Metropolitan Magistrate, by his order dated 02.03.2015, declined to issue any direction to the police referring in this context to,

inter alia, decision of this court reported as M/s. Skipper Beverages Pvt. Ltd. vs. State, 2002 Cr.L.J. NOC 333 (Delhi). The petitioner challenged the

said order before the court of Sessions by Criminal Revision No.182/2015 which was dismissed by the revisional court, by its decision dated

07.04.2016, endorsing the view taken by the court below. It may be added here that by his order dated 02.03.2015, while declining directions under

Section 156(3) Cr.P.C. the Metropolitan Magistrate indicated that he was inclined to take cognizance and gave liberty to the petitioner to pursue the

matter under Section 200 Cr.P.C.

3. Questioning the said two orders, the present petition has been filed under Section 482 Cr.P.C. for intervention by this court.

4. 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.

5. 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 has earlier declined to interfere by the ruling (dated 03.07.2018) in Cr.L.M.C. 164/2018 Ajay Maini vs. The State Govt. of

NCT of Delhi & Ors. in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

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

7. The petition stands dismissed.