

Pankaj Sharma vs.state & Ors.

Pankaj Sharma vs.state & Ors.

SooperKanoon Citation : sooperkanoon.com/1215751

Court : Delhi

Decided On : Jul-04-2018

Appellant : Pankaj Sharma

Respondent : State & Ors.

Advocate for Def. : Mr. Mukesh Kumar

Advocate for Pet/Ap. : Mr. Ravi Ranjan, Mr. Gaurav

Judgement :

\$~26 + IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:-

"4th July, 2018 CRL. M.C. 3946/2015 PANKAJ SHARMA

... Petitioner

Through: Mr. Ravi Ranjan & Mr. Gaurav versus Singh, Advs. STATE & ORS.

Through:

... RESPONDENTS

Mr. Mukesh Kumar, APP for the State with SI Avdesh, PS Vijay Vihar. CORAM: HON'BLE MR. JUSTICE R.K.GAUBA ORDER (ORAL) 1. The petitioner is aggrieved by the order dated 13.08.2015 of the Court of Sessions in criminal revision No.25/2015 which had been presented by him to question the correctness, legality and propriety of the order dated 18.04.2015 of the Metropolitan Magistrate in complaint case No.405/01/2014. The said order dated

18.04.2015 had been passed by the Metropolitan Magistrate declining the prayer of the petitioner for direction to the police for registration of first information report (FIR) on the basis of his application to that effect in the context of the complaint that had earlier been made by him to the station house officer of police station Vijay Vihar alleging, inter alia, that the private respondents herein had committed offences punishable under CrI. M.C. No.3946/2015 Page 1 of 4 Sections 403/406/420/494/495/506/120B/34 of Indian Penal Code, 1860 (IPC). The Metropolitan Magistrate treated the said petition seeking direction under Section 156 (3) Cr.P.C. as a criminal complaint and decided to take cognizance thereupon calling upon the petitioner, by the order dated 18.04.2015 to adduce pre-summoning evidence which would be in the nature of inquiry under Sections Cr.P.C. The Court of Sessions declined to interfere in the said order passed by the Metropolitan Magistrate in his judicial discretion and consequently dismissed the revision petition under Section 397 Cr.P.C.

2. The petitioner seeks to invoke the jurisdiction of this Court primarily under Section 482 Cr.P.C read with Article 227 of the Constitution of India to pray for the aforesaid orders of the courts below to be set aside.

3. It may be noted here that the prime allegations on the basis of which the petitioner sought the criminal law to be set in motion are that the private respondents had approached him and his family proposing the marriage of the second respondent with him, representing her as a spinster and a good match. He alleges that believing the representations made respecting the second respondent, the marriage was eventually solemnized on 14.04.2012. He attributes certain acts of commission and omission on the part of the second respondent and members of her family who are the other private party respondents in the petition giving rise to certain matrimonial disputes. It is his case that he had later come to know by certain documents received through courier that the second respondent had earlier been CrI. M.C. No.3946/2015 Page 2 of 4 married to one Mr. Sundeep Bhai Dhanji Bhai Makwana. He would, thus, allege that marriage ceremony undergone with him on 14.04.2012 was in the nature of bigamous relationship, the factum of previous marriage having been concealed. He alleges cheating and misappropriation of certain property belonging to him by the private respondents

and also certain acts having been committed amounting to criminal intimidation, all such offences allegedly having been committed pursuant to criminal conspiracy or by acts indulged in by common intention.

4. The Metropolitan Magistrate declined to issue a direction to the police for registration of the FIR, referring in this context to judgment of this Court in M/s Skipper Beverages Pvt. Ltd. vs. State 2002 CrL.L.J.

NOC333(Delhi), and also noting that the application for such direction had been moved in the wake of FIR No.111/2014 having been lodged by the second respondent at police station Gatholidia, Gujrat alleging offences punishable under Sections 498A/323/294B/114 IPC. The Sessions Court, in its revisional jurisdiction, found no illegality or impropriety in the said approach of the Metropolitan Magistrate and, in that context, referred to another ruling of this Court in Sh. Subhkaran Luharuka & Ors. vs. State (Govt. of NCT of Delhi) & Ors. in CrL.M.C. 6122-23/2005 dated 09.07.2010.

5. Against the above backdrop, the 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 seek a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C. CrL. M.C. No.3946/2015 Page 3 of 4 6. This Court in almost similar fact-situation, taking note of the decisions of the Supreme Court reported as Krishnan Vs. Krishnaveni, (1997) 4 SCC241 Rajinder Prasad Vs. Bashir, (2001) 8 SCC522 and Kailash Verma vs. Punjab State Civil Supplies Corporation & Anr., (2005) 2 SCC571 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 by order dated 03.07.2018 to interfere by the ruling in CrL.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.

7. There are no special circumstances made out in the case at hand for the revisional courts view to be disturbed. As rightly observed by the courts below, the inquiry magistrate would have the necessary jurisdiction to order probe by the police if a certain aspect requires such investigation when the case reaches the

stage of Section 202 Cr.P.C. The petition is dismissed.

8. R.K.GAUBA, J.

JULY04 2018 nk Crl. M.C. No.3946/2015 Page 4 of 4

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com