

Raj Kumar & Ors. Vs.state & Anr.

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Court : Delhi

Decided On : Aug-28-2018

Appellant : Raj Kumar & Ors.

Respondent : State & Anr.

Advocate for Def. : Mr. Mukesh Kumar

Advocate for Pet/Ap. : Mr. Ashok Kumar Sherawat

Judgement :

\$~50 + IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:-

"28th August, 2018 CRL. M.C. 3029/2018 RAJ KUMAR & ORS.

... Petitioner

s Through: Mr. Ashok Kumar Sherawat, Adv. along with petitioners. STATE & ANR. versus Through:

... RESPONDENTS

Mr. Mukesh Kumar, APP for the State. CORAM: HON'BLE MR. JUSTICE R.K.GAUBA ORDER (ORAL) 1. The petition at hand challenges the order dated 05.04.2017 of the Metropolitan Magistrate in the criminal case arising out of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted on conclusion of investigation into FIR No.39/2013 whereby charge under Section 498A/34 of Indian Penal Code, 1860 (IPC) was framed against the petitioners. On

being asked, the counsel for the petitioner submits the said order was earlier challenged in the court of Sessions invoking its revisional jurisdiction. The revision petition was dismissed. Neither the copy of the said order is filed with the petition nor has the said fact been mentioned.

2. Against the above backdrop, question arose as to whether the petitioners having availed of the remedy of revision should be allowed CrI. M.C. No.3029/2018 Page 1 of 2 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.

3. This Court in an 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 to interfere by the ruling (dated 03.07.2018) in CrI.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.

4. There are no special circumstances made out in the case at hand for the revisional courts view to be disturbed.

5. The petition is dismissed. R.K.GAUBA, J.

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