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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 16th November, 2018

+ CRL.M.C. 4777/2016

ASHOK KAUSHIK

.... Petitioners

Through: Mr. Avinash Kumar Tyagi,
Advocate

versus

STATE (C.B.I.)

.... Respondent

Through: Mr. Narender Mann, SPP with
Mr. Manoj Pant, Advocate.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner herein is one of the several accused persons who were sent up for trial by the respondent Central Bureau of Investigation (CBI), on a report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted upon conclusion on investigation into case (RC No.3/2012 ACU-VI/CBI) New Delhi. The matter came up before the Additional Chief Metropolitan Magistrate (ACMM) for consideration of charge. By order dated 06.01.2015, the ACMM found sufficient material available on record to put, *inter alia*, the petitioner herein on trial for offences punishable under Sections 120-B read with Section 419/420/384 Indian Penal Code (IPC), and for the substantive offences under Section 420 IPC read with Section

511 IPC, in the alternative for offence punishable under Section 384 IPC read with Section 511 IPC.

2. The petitioner challenged the said order before the court of Sessions by criminal revision No.28/15 contending that there was no evidence worth the name against him. The Sessions Court dismissed the revision petition by its order dated 29.07.2016. Thereafter, the petitioner has approached this court by the present petition under Section 482 Cr.P.C. raising the same contention as above.

3. 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.

4. 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 CrI.M.C. 164/2018 *Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of its extraordinary jurisdiction under Section 482 Cr.P.C.

5. During the course of hearing, the learned counsel for the petitioner made a feeble attempt to selectively read from the charge sheet to submit that all that he is accused of is to make an attempt to secure a loan against a property. The learned Additional Public Prosecutor for the State pointed out that there is substantive evidence available including in the form of statement under Section 164 Cr.P.C. of the witnesses including Akhilesh Chauhan, the intended victim, confirming the case of the petitioner being party to the criminal conspiracy alongwith others, which is sought to be corroborated, amongst others, by intercepted telephonic conversation.

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 is dismissed.

R.K.GAUBA, J.

NOVEMBER 16, 2018

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