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

+ CRL.M.C. 3615/2011

S P GUPTA

Through

..... Petitioner

Mr. Jayant Bhushan, Sr. Advocate
with Mr. Gurpreet and Mr. Y.S.
Dalal, Advocates

versus

STATE & ANR

Through

..... Respondent

Ms. Fizani Husain, APP for State
(proforma party)
Appearance not given on behalf of
Respondent no.2

CORAM:

HON'BLE MR. JUSTICE M.L. MEHTA

ORDER

03.11.2011

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The challenge in the present petition is to the summoning order dated 26th November, 2009 of learned MM as passed in complaint case No. 560/1 titled M/s V.L.S. Financial through Harsh Allagh v. Dr. S.H. Siddiqui.

I have heard Shri Jayant Bhushan, learned Senior Counsel for the petitioner and learned counsel for the respondent/complainant.

It is submitted by learned Senior Counsel for the petitioner that the petitioner has already been summoned along with co-accused persons under Sec. 500/120B IPC in FIR No.148/2002 of PS Defence Colony and the said matter is pending before Sh. Sunil Chaudhary, ACMM, Tis Hazari Courts. Learned Senior Counsel submits that the allegations against the petitioner in the present complaint are identical

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as in the FIR No. 148/2002 and based on this, it is submitted, the petitioner cannot be tried twice for the same allegations.

Learned counsel for respondent no.2/complainant disputes this submission of learned counsel for the petitioner that the allegations under Sec.500 as in FIR No. 148/2002 and in the complaint case are identical or similar.

This Court need not go into this aspect at this stage. However, admittedly, the present complaint case is pending in the court of Sh. Gaurav Rao, MM, Saket. For expediency and in the interest of justice, it is ordered that the said complaint case No. 560/1 pending in the court of Gaurav Rao, MM is transferred to the court of Sh. Sunil Chaudhary, ACMM, Tis Hazari Court and this complaint case will be tried along with the case FIR No. 148/2002 wherein the petitioner along with other co-accused, had already been summoned and are appearing in the matter which is listed for consideration of Charge.

It is informed by the learned counsel for the respondent No.2/complainant that he will seek short adjournment in that case so as to make it possible for the complaint case to be transferred to the court of Sh. Sunil Chaudhary, ACMM from the court of Gaurav Rao, MM, Saket. To avoid further delay on this account or any confusion to arise therefrom, it is directed that the case FIR No. 148/2002 pending before Sh. Sunil Chaudhary, ACMM listed for tomorrow will be re-fixed by him for 24th November, 2011 and by that time, the aforesaid complaint

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case will also be transferred from the court of Sh. Gaurav Rao, MM, Saket.

It is directed that Sh. Sunil Chaudhary, learned ACMM shall take both the cases together on 24th November, 2011 also. The learned ACMM shall examine the submissions of parties as per law as to whether the present complaint case was maintainable or not in view of the pendency of the case FIR No. 148/2002. Learned ACMM shall further proceed according to law and as he deems appropriate and necessary.

The learned ACMM shall also consider the aspect of appearance of petitioner on the similar lines as in the case FIR No. 148/2002. It is expected that learned ACMM shall take up the cases expeditiously.

The petition stands disposed of.

Copy of the order be given dasti to both the parties.



M.L. MEHTA, J

NOVEMBER 03, 2011
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