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

**RESERVED ON: 27.04.2012**  
**PRONOUNCED ON: 27.09.2012**

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**WP (C) 1447/2012, CM APPL.3156/2012**

**JAIVEER KASHYAP**

..... Petitioner

Through: Mr. F.S. Chauhan, Advocate.

versus

**STATE & ORS.**

..... Respondents

Through: Mr. Rajesh Mahajan, ASC.

**CORAM:**

**MR. JUSTICE S. RAVINDRA BHAT**

**MR. JUSTICE S.P. GARG**

**MR. JUSTICE S.RAVINDRA BHAT**

% The writ petitioner is aggrieved by what is alleged by him to be deliberate and shoddy investigation by police authorities into the murder of his brother Dharamvir.

2. The brief facts are that on 14.5.2011, the petitioner's brother Dharamvir, who was carrying cash, was allegedly assaulted and robbed of Rs. 12,000 by the accused Ajay and few others. The petitioner was present there at that time, and witnessed the incident. The accused fled from the scene on a motorcycle. The petitioner claims to have photographed the rear number plate and gave the first information of the crime to PCR from his mobile phone. He took his injured brother to the hospital where he later died. The local police recorded a DD entry, based on information received by PCR from the petitioner's mobile number. It is alleged that one HC Omprakash instead impersonated himself as the complainant/first informant,

and describing the incident as an accident, got a false FIR No. 198/2011 registered at P.S. Jyoti Nagar, and recorded that he could not find the petitioner or any other eye witness, despite the fact that the petitioner gave H.C. Omprakash a detailed account of the incident, told him about the incident and also disclosed the whereabouts and names of some of the offenders, at the hospital. The IO/SHO forged the petitioner's signature on a paper to frame his false statement describing the incident as a mere quarrel. This denied the petitioner the right to receive a copy of the FIR under section 154(2), CrPC as well as to receive a communication u/s 173(2)(ii), CrPC as to the action taken by the police. The IO/SHO further gave a press release mentioning the incident as only a case of road rage. Moreover, he also deliberately framed a false site map of the crime scene, omitted to find the owner of the motor cycle involved, omitted to find the nexus between ASI Satbir with the accused, and also failed to take on record even the record of the PCR van's report to PCR dated 14.5.2011 which disclosed offences under section 302/397, IPC. The petitioner reported to DCP North East that an ASI posted at P.S. Jyoti Nagar, was related to the accused Ajay Kumar and was patronizing a gang committing robbery etc on motorcycles bearing police logo, and that the local police were slanting the record in the abovementioned matter and that he was being threatened by members of the gang to not be an eye witness. But upon failure of the DCP to act, on 25.5.2011, the petitioner filed an application under Section 156 (3), CrPC praying for registration of another FIR based on his report, and seeking police protection. The Magistrate ordered the registration of another FIR, but did not direct providing police protection to the petitioner. Finally, an incomplete investigation report was submitted under Section 173(2), CrPC

on 10.8.2011 without giving any information to the petitioner under section 173(2)(ii). The petitioner filed an application under Section 173(8) for direction that further investigation be conducted. Learned ASJ, by the impugned orders, all dated 7.1.2012 dismissed the petitioner's applications for further investigations, hastened to frame charges based on the incomplete investigation, charged the accused for offences under section 34/302, IPC but did not frame charge them under section 397, IPC and directed the prosecution to lead evidence. Thus, this writ petition.

3. In this writ petition, the petitioner seeks the following reliefs:
  - i. A writ of certiorari setting aside the orders dated 7.1.2012 passed by learned ASJ in FIR no 198/2011, P.S. Jyoti Nagar whereby the request for further investigation was declined.
  - ii. A writ of mandamus against respondent no 2 to take appropriate action against DCP North East for not taking any action on the petitioner's application dated 23.5.2011.
  - iii. A writ of mandamus for respondent no 2 to order an inquiry into the nexus of ASI Satbir with the criminals and into forging the records in FIR no 198/2011, P.S. Jyoti Nagar.
  - iv. A direction to respondent no 1 to ensure the rule of law by its officers by their compliance to the express provisions of law.
  - v. A declaration that sections 225 and 301(2) of the CrPC, 1973 are unconstitutional on account of violation of the human right of the complainant to equality of access to justice and violation of his fundamental right to equality before law.

- vi. An appropriate writ, order and/or directions commanding the learned ASJ to permit the petitioner to conduct prosecution by the pleader of his choice.
- vii. A direction to respondent no 2 to improve the law and order and to provide police protection to the petitioner and his family.

Arguments of parties

4. To show that that the writ petition is maintainable, learned counsel placed reliance on *K.T. Plantation v. State of Karnataka*, 2011 (8) SCALE 583 where it was held that the rule of law is a basic feature of our Constitution. It was also submitted that the Supreme Court had in *Tashi Delek Gaming Solutions Ltd. v. State of Karnataka and others*, (2006) 1 SCC 442 held that access to justice is a human right.

5. As regards prayer (i), learned counsel for the petitioner placed reliance on the ratio of the decision reported as *Kashmiri Devi v. Delhi Administration and Anr.* AIR 1988 SC 1323 to contend that as there were two rival versions in respect of the same episode there should have been two different FIRs, and the investigation for those could have been carried out by the same investigating agency. Counsel also placed reliance on the decision reported as *Azija Begum v. State of Maharashtra and Anr.* (2012) 3 SCC 126. It was also argued that courts must exercise their discretion to ensure registration, proper investigation and fair trial of offences alleged in accordance with law.

6. Learned counsel asserted that there exists collusion between the local police and the accused; that despite his brother's case having been reported

to senior Police officials, no action was taken; that the local police deliberately performed defective and incomplete investigation so that the prosecution of the accused would suffer. It was urged that the nexus between the local police and accomplices of the accused is still operating, and that it caused the petitioner to flee his house and live in hiding. It was furthermore urged that the victim/complainant has a right and the prosecution, a corresponding duty to ensure a complete and impartial investigation.

7. Assailing the constitutionality of Section 225 and 301(2), CrPC, learned counsel for the petitioner urged that the present position of law depriving the complainant the option to have the prosecution done by a pleader of his choice is violative of Article 14 of the Constitution of India. He reasoned that like the accused, the complainant/victim too have an equal right to access justice. He stressed that provisions like Sections 50, 50A, 54, 55A, 56, 57, 161(2), 164, 167(1), 169, 207, 208, 227, 303, 304, 31 and 316 were adequate to ensure the guarantees of a fair trial to the accused. He further argued that criminal courts are under a duty to promote the objects of the penal statutes, and relied on the observations of the Supreme Court in *A.R. Antulay v. Ram Das Srinivas Nayak* (1984) 2 SCC 500 that “*punishment of the offender in the interest of the society*” is “one of the objects behind penal statutes”. He argued that the guarantee of procedural fairness at trial is not only for the accused, and the complainant/victim is equally entitled to the same. In this regard, he relied on the apex court’s decision in *Tasi Delek Gaming Solutions Ltd. v. State of Karnataka and Ors.* (2006) 1 SCC 422 [para 37] where the counsel stated that equality of access to justice was recognized as a human right. He further reasoned that there was no need to whittle down the rights of the complainant/victim to ensure

rights to the accused. Lastly, it was contended that as in India criminal justice is administered through an adversarial system, the complainant/victim ought to have a right similar to that of the accused under section 303, CrPC.

8. Alternatively, it was urged that since the present case involved collusion of police officials with the accused, to ensure fairness of trial the counsel for the complainant be allowed to conduct prosecution by extending the scope of section 302, CrPC to include even a trial before a court of session.

9. Counsel for the State defended the order of the Additional Sessions Judge, stating that he had rightly denied the application for direction for further prosecution as after commencement of trial the same function can be taken care of by the trial judge in accordance with Section 311, CrPC. Counsel stated that no fault could be found in Court's observation that it is well settled that the police is not de-barred from proceeding with further investigation into the matter if some incriminating evidence or material is subsequently discovered.

10. Counsel for the State, in response to the challenge to the constitutionality of section 225 and 301, CrPC, pointed out that Section 301(2), CrPC empowers a private person's pleader to act under the directions of the Public Prosecutor or Assistant Public Prosecutor, who is in-charge of the case, and also to submit, with the permission of the court, written arguments after the evidence is closed. He stressed that this adequately caters to the right of the complainant/victim. Moreover, he reasoned that before a Court of Sessions, since only serious offences are tried, the state, and not the individual is the prosecutor. He placed reliance

on the Supreme Court's decision in *Shiv Kumar v. Hukum Chand and Anr.* 1999 SCC (Cri) 1277. Moreover, in relation to the petitioner's argument about extending the scope of Section 302, CrPC learned counsel for the State submitted that if the Trial Court were to allow the private counsel of complainant to conduct prosecution, it would amount to bypassing the express legislative mandate manifested in section 302, CrPC which only applies to trial by a Magistrate.

### Analysis and Conclusions

11. We have considered the arguments of the parties. *Prima facie*, the allegations that have been brought to light are extremely unfortunate. However, we are mindful of the fact that the trial is continuing, and that the Court of Session is empowered under section 311, CrPC to summon material witnesses. Section 311 reads as follows:

***“311. Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”***

The unequivocal manner in which the section is worded (“any Court,” “at any stage,” “any inquiry, trial or other proceeding” and “any person”) indicates that there is no limitation whatsoever on the power of a Trial Court in summoning/examining persons as witnesses. This power is, in fact, coupled by a corresponding duty to exercise the aforementioned powers if the purported new evidence appears to it to be essential to the just decision

of the case. The Court cannot evade its statutory responsibility by omitting to consider whether the evidence of any witness left out by the parties is essential or not (*Ram Bali v. State* AIR 1952 All 289). The court may summon witnesses, and if the prosecution declines to examine them, the court may thereupon, acting on its own initiative, cause them to be produced (*Satyendra v. Emperor* A.I.R. 1923 Cal. 463). The power of the court to examine a witness as conferred by section 311, cannot be curtailed in any manner or beyond any stage, so long as the court remains seized of the matter [*Gurdev Singh v. State*, 1982 Cr LJ 2211 (P&H)].

12. It is also pertinent to recollect Section 165, Evidence Act, 1872 which reads as follows:

***165. Judge' s power to put questions or order production.-*** *The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross- examine any witness upon any answer given in reply to any such question: Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved: Provided also that this section shall not authorize any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted."*

Thus, a judge has, under this provision, the power to ask any question,

whether relevant or irrelevant, in order to discover or obtain proper proof of the relevant facts (*Queen Empress v. Hari Lakshman* I.L.R. 10 Bom. 185; *State of Rajasthan v. Ani alias Hanif* AIR 1997 SC 1023). Thus, we are convinced that during the trial, the learned ASJ would be competent, empowered, and in particular circumstances, even obligated to summon/examine persons who may not have been examined by the prosecution.

13. Another grievance of the petitioner was that the accused were not charged with the offence under section 397, IPC when his actual statement recorded by the police under section 161, CrPC had disclosed facts satisfying the ingredients of the said offence. In this regard, we note that section 216, CrPC empowers the Trial Court to alter or add any charge at any time before the judgment. Section 217 permits a trial court to recall a witness when a charge has been altered, if the circumstances so warrant.

14. This Court is of the view that it is always open to the Trial Court to reconsider the position of charges as may arise from the evidence received by him in the course of trial of the case [*Hasanbhai Valibhai Qureshi v. State of Gujarat*, AIR 2004 SC 2078]. A new charge can be added if there is material to justify such action [*Ishwarchand Amichand Govadia v. State of Maharashtra*, 2006 (10) SCC 322]. If and when a new charge is added, the prosecution and the accused both can be allowed to recall witnesses already examined, and even call any fresh witnesses whom the Court may think to be material. As already pointed out, even if both the prosecution and the accused do not apply for examination or re-examination, as the case may be, the Trial Court would still be competent to do so on its own motion by virtue of both section 311, CrPC and section 165, Evidence Act.

15. The Court's notice was brought to the decisions of the Supreme Court in *Azija Begum* (supra) and the *Kashmiri Devi* (supra) case. In this Court's opinion, both cases can be distinguished from the present case because in those, instead of arresting/implicating the alleged culprit, the police had in both cases arrested someone else. In the present case, we note that the accused have already been charged under section 302/34, IPC. The offence they have not been charged under and with which the petitioner is aggrieved is Section-397, IPC. Moreover, the accused as per the police version and as per the petitioner's account are the same based on the petitioner's allegations, the FIR in this case was filed against the same accused. It is not the prosecution case that there were any persons who should have been arraigned as accused. The decisions of the Supreme Court in *Kari Choudhary v. Most. Sita Devi and Ors.* 2002 Cri LJ 923 and in *Bank of Rajasthan* (supra) can therefore be distinguished, and do not provide any assistance to the petitioner's case.

16. Consequently, the claim that the State of NCT Delhi be ordered to ensure rule of law by its officers by their compliance to the express provisions of law cannot be granted by reason of being vague and general in nature.

### **Validity of Sections-225 & 301 (2)**

As far as the challenge to the constitutionality of Section 225 and 301(2), CrPC is concerned, before a discussion, it is necessary to reproduce the provisions of the CrPC which are relevant for the determination of this issue.

***“225. Trial to be conducted by Public Prosecutor. In every trial before a Court of Session, the prosecution shall be conducted by a***

*Public Prosecutor.*

**301. Appearance by public prosecutors.** (1) *The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.*

(2) *If any such case any private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case.*

**302. Permission to conduct prosecution.** (1) *Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of Inspector; but no person, other than the Advocate- General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission:*

*Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.*

(2) *Any person conducting the prosecution may do so personally or by a pleader.*

**303. Right of person against whom proceedings are instituted to be defended.** *Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.”*

17. The basic ground for challenge by the petitioner is violation of Article-14 under the Constitution. It was argued that it is discriminatory to give accused the right to instruct a pleader of his choice, but not give the same entitlement to the complainant/victim. The question is not as simple as it is stated. In a criminal trial, the accusations are made by the investigating agencies, based on which the person is charged with an offence; such

accusations are sought to be proved by way of evidence by the prosecution. The purpose of a criminal trial is not to convict the person charged. Instead, it is a process of finding the truth of the allegations made against the person at trial and fixing responsibility. Thus, at trial, the case is prosecuted by a Public Prosecutor (PP), on behalf of the State. The PP is expected to assist the court in arriving at the truth, and by now it is well settled that he has an independent role.

18. In this regard, the Karnataka High Court in *K.V. Shiva Reddy v. State of Karnataka and Ors.*, 2005 CriLJ 3000, discussed the status and responsibilities of a Public Prosecutor. Some extracts of the judgment are as follows: -

*“14. The Delhi High Court in the case of Ajay Kumar v. State and Anr. 1986 CriLJ 932 dealing with the role of a Public Prosecutor held that, the Public Prosecutor is a functionary of the State appointed to assist the Court in the conduct of a trial, the object of which is basically to find the truth and to punish the accused if he is found guilty according to the known norms of law and procedure. It is no part of his obligation to secure conviction of an accused, in any event, or at all costs. Nor is he intended to play a partial role or become party to the prosecution of the accused or lend support, directly or indirectly, to a denial of justice or of fair trial to the accused. His plain task is to represent the State's point of view on the basis of the material which could be legitimately brought before the Court at the trial. If all State actions must be just, fair and reasonable, he would be under no less duty as a functionary of the State to discharge his functions as a Public Prosecutor in an equally just, fair and reasonable manner irrespective of the outcome of the trial. In that sense, he is part of the judiciary system, and an upright Public Prosecutor has no friends and foes in Court. He has no prejudices, preconceived notions, bias, hostility or his own axe to grind. He represents public interest but is not a partisan in the narrow sense of the term.*

15. *A Public Prosecutor h*

*as no client or constituency apart from the State and State is not a party like any other party. He is not paid by an individual who may be aggrieved or by the accused who is on trial. He, therefore, does not have the disability of a dual personality, which is certainly true of an ordinary Advocate, who is torn, in the thick of his practice in Court, between the wider loyalty to public interest, to the Court system, claim of straight and rigid adherence to truth and discipline on the one hand, and his narrow, as also monetary, association with the individual litigant or the institution, whom he represents on the other. An Advocate-client relationship introduces a personal element from which the Public Prosecutor must be considered immune. He is above the personal loyalty. He does not have a dual capacity.”*

19. *The Supreme Court, in the case of Shiv Kumar v. Hukam Chand and Anr. 1999 SCC (Cri) 1277 underlined the role and duties of a Public Prosecutor as follows: -*

*“A Public Prosecutor is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts involved in the case. The expected attitude of the Public Prosecutor while conducting prosecution must be couched in fairness not only to the Court and to the investigating agencies but to the accused as well. If an accused is entitled to any legitimate benefit during trial the Public Prosecutor should not scuttle/conceal it. On the contrary, it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. Even if the defence Counsel overlooked it, the Public Prosecutor has the added responsibility to bring it to the notice of the Court, if it comes to his knowledge. A private Counsel, if allowed a free hand to conduct prosecution would focus on bringing the case to conviction even if it is not a fit case to be so convicted. That is the reason why Parliament applied a bridle on him and subjected his role strictly to the instructions given by the Public Prosecutor.*

20. *In Medichetty Ramakistiah v. State, of Andhra Pradesh AIR 1959 AP 659* the Andhra Pradesh High Court held as under:

*“The principle that the Public Prosecutor should be scrupulously fair to the accused and present his case with detachment and without evincing any anxiety to secure a conviction, is based upon high policy and as such Courts should be astute to suffer no inroad upon its integrity. Otherwise, there will be no guarantee that the trial will be as fair to the accused as a criminal trial ought to be. The State and the Public Prosecutor acting for it are only supposed to be putting all the facts of the case before the Court to obtain its decision thereon and not to obtain a conviction by any means fair or foul. Therefore, it is right and proper that Courts should be zealous to see that the prosecution of an offender is not handed over completely to a professional gentleman instructed by a private party and unless, therefore, the control of the Public Prosecutor is there, the prosecution by a pleading for a private party may degenerate into a legalised means for wreaking private vengeance.”*

The Court therein concluded:

*“25... The office of the Public Prosecutor involves duties of public nature and of vital interest to the public. In criminal cases the State is the Prosecutor. The State by Public Prosecutor is the party and not the complainant. The Prosecutor is bound by law and professional ethics and by his role as an officer of Court to employ only fair means. Public Prosecutor must remind himself constantly of his enviable position of trust and responsibility.*

*26. Responsibilities.--A Public Prosecutor is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts of the case. The expected attitude of the Public Prosecutor while conducting prosecution must be couched in fairness not only to the Court to the investigation agencies but to the accused as well. If an accused is entitled to any legitimate benefit during trial, the*

*Public Prosecutor should not scuttle/conceal it. On the contrary, it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. Even if the defence Counsel overlooked it, the Public Prosecutor has the added responsibility to bring it to the notice of the Court, if it comes to his knowledge.*

*27. It is an office of responsibility more important than many others because the holder is required to prosecute with detachment on the one hand and yet with vigour on the other. An upright Public Prosecutor has no friends and foes in Court. He has no prejudices, preconceived notions, bias, hostility or his own axe to grind. He represents public interest. He has no client or constituency apart from the State. He is above the personal loyalty. He does not have a dual capacity. He has to safeguard public interest in prosecuting the case. Public interest also demands that the trial should be conducted in a fair manner, heedful of the rights granted to the accused under the laws of the country including code. It is no part of his obligation to secure conviction of an accused in any event or at all costs. Nor is he intended to play a partisan role or become party to the prosecution of the accused or lend support, directly or indirectly to a denial of justice or of fair trial to the accused.”*

21. This Court fully concurs with the above views. They highlight the strong and cogent reason behind treating differently the accused and the complainant in a criminal trial by allowing the defence to be conducted by the counsel of the choice of the accused, but the prosecution to be compulsorily conducted by the Public Prosecutor. Serious crimes in respect of which the police machinery is used and in which investigation is conducted and reports filed under Sections-169 and 170 are prosecuted by the State. The vital public policy consideration here is that the State assumes responsibility for bringing to book those behind crimes which are deemed serious and potentially undermine public order or challenge the

social fabric. Putting in place a specialized agency and an independent official such as Public Prosecutor injects fairness, and also ensures uniform treatment. In the absence of such mechanism, complainants and victims of crime who cannot afford to fund investigations or prosecutors would be unable to get justice. Furthermore, if the private prosecution of such serious crimes is permitted, there would be a real possibility of the rule of law being undermined, as the complainant or victim may, in the “thirst” for conviction carry out an entirely unfair and prejudicial proceeding. We find that the mandate of section 225 and 301(2), CrPC that the Public Prosecutor must be in-charge of the prosecution is conscious, and in fact, indispensable. We therefore hold that these provisions are not violative of the equality principle provided for under Article 14 of the Constitution. It is reasonable classification based on an intelligible differential.

22. As regards the alternative argument pressed by the petitioner regarding extending the scope of Section-302, CrPC to this case, the Court note that doing so would amount to ignoring clear and express wording of Section 302, CrPC; it begins with the words “*Any Magistrate inquiring into or trying a case may*”. It is clear that the provision is limited in its application to trial by Magistrates. Thus, by implication, and by virtue of Section 225, CrPC it becomes clear that it is only the Public Prosecutor or the Assistant Public Prosecutor who can conduct prosecution before a Court of Session. The Supreme Court in *Shiv Kumar v. Hukam Chand and Anr.* (1999) 7 SCC 467 while taking a similar view in light of a similar relief sought had noted:

*“9. It must be noted that the latter provision is intended only for magistrate courts. It enables the magistrate to permit any person to*

*conduct the prosecution. The only rider is that magistrate cannot give such permission to a police officer below the rank of Inspector. Such person need not necessarily be a Public Prosecutor.*

*10. In the magistrate's court anybody (except a police officer below the rank of Inspector) can conduct prosecution, if the magistrate permits him to do so. Once the permission is granted the person concerned can appoint any counsel to conduct the prosecution on his behalf in the magistrate's court.*

*11. But the above laxity is not extended to other courts. A reference to Section [225](#) of the Code is necessary in this context.”*

23. Petitioner has not made any specific allegations about the existence of any threat or danger to him or his family. In his application to the DCP (Annexure 8), he stated that he was informed about accused and others beating up his brother by a tea stall owner. He further stated therein that the tea stall owner has disappeared, and thus the threats are not empty ones, but serious in nature. In this context, the Court is of opinion that such a request can be made to the court concerned if any threat exists. The court would consider the application on its merits.

24. In view of the above discussion and findings, this Court is of the opinion that the petition lacks in merits and is dismissed, but subject to the liberty granted in Para-23. No costs.

**S. RAVINDRA BHAT  
(JUDGE)**

**S. P. GARG  
(JUDGE)**

**SEPTEMBER 27, 2012**