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

+ **CRL.M.C. 5324/2023**

MARTIN JAMES COLLIN GRAHAM

.....Petitioner

Through: Mr. Dinkar Singh and Mr. Rohit Singh, Advs.

versus

CENTRAL BUREAU OF INVESTIGATION

.....Respondent

Through: Ms. Rajni Gupta, SPP (CBI) with Mr. Shivender Gupta, Adv.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **21.07.2026**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the '*Cr.P.C.*') seeking setting aside of the order dated 02.06.2023 passed by the learned ASJ-05, Central District, Tis Hazari Courts, Delhi, whereby the petitioner's application under Section 5 of the Limitation Act, 1963 (hereinafter referred to as the '*Limitation Act*') seeking condonation of delay in filing Criminal Revision No. 20/2021 was dismissed.
3. Briefly stated, a complaint was lodged by the Director General, Archaeological Survey of India alleging illegal export of antiquities, pursuant to which RC No. SID 2004 E 001 dated 29.01.2004 came to be registered by the Central Bureau of Investigation (CBI) against the petitioner, another accused and M/s Bowring's Fine Art Auctioneers Pvt. Ltd. for offences



punishable under Section 25(1) read with Section 3 of the Antiquities and Art Treasures Act, 1972 (hereinafter referred to as the 'AAT Act') read with Section 120-B of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC'). Upon filing of the chargesheet, the learned Trial Court took cognizance of the offences and summoned the accused. An application seeking discharge under Section 239 Cr.P.C. was thereafter filed. Subsequently, *vide* order dated 21.07.2014, the learned Trial Court proceeded to frame notice under Section 251 Cr.P.C. The CBI thereafter preferred an application under Section 259 Cr.P.C. seeking modification of the said order, which was disposed of *vide* order dated 04.01.2019. Aggrieved thereby, the petitioner preferred a criminal revision. During the pendency of the revision petition, an objection as to limitation was raised with respect to the challenge to the order dated 21.07.2014, whereupon the petitioner filed an application under Section 5 of the Limitation Act seeking condonation of delay. The said application having been dismissed by the Revisional Court *vide* the impugned order dated 02.06.2023, the petitioner has preferred the present petition.

4. Learned counsel for the CBI strongly opposes the present petition and submits that the criminal revision was filed belatedly, after nearly three years, and, therefore, the application seeking condonation of delay was rightly dismissed by the Revisional Court. He further submits that the application under Section 259 of the Cr.P.C. has since been allowed by the learned Trial Court and, consequently, the matter is proceeding as a warrant trial *qua* the petitioner and is presently at the stage of recording the prosecution evidence. According to him, the petitioner, under the guise of the present petition, seeks to reopen the issue of discharge under Section 239 of the Cr.P.C., which cannot be permitted. It is further submitted that the case pertains to the year



2004 and has remained pending for nearly two decades.

5. This Court has considered the rival submissions and perused the record.

6. A perusal of the orders passed by the learned Trial Court reveals that, though the prosecution arose out of offences triable as a warrant case instituted on a police report, the learned Trial Court proceeded to frame notice under Section 251 of the Cr.P.C. *vide* order dated 21.07.2014. Thereafter, the CBI preferred an application under Section 259 Cr.P.C. seeking modification of the said order, which came to be disposed of by the learned Trial Court *vide* order dated 04.01.2019.

7. The petitioner challenged the aforesaid orders by way of a criminal revision. Admittedly, the challenge to the order dated 21.07.2014 was instituted belatedly, after nearly three years, and, therefore, the petitioner sought condonation of delay by filing an application under Section 5 of the Limitation Act. The learned Revisional Court, by the impugned order, declined to condone the delay. Upon perusal of the impugned order, this Court finds no infirmity in the view taken by the learned Revisional Court.

8. It is also not in dispute that the case pertains to the year 2004 and is presently at the stage of recording the prosecution evidence. By way of the present petition, the petitioner seeks to re-agitate the issue relating to discharge under Section 239 Cr.P.C., notwithstanding that the proceedings have progressed substantially. Permitting such a course at this stage would amount to reopening the trial, which has remained pending for over two decades.

9. In view of the foregoing discussion, this Court finds no ground to interfere with the impugned order. Accordingly, the present petition is dismissed.



10. Pending application(s), if any, also stand disposed of.
11. The order be uploaded on the website forthwith.

MADHU JAIN, J

JULY 21, 2026/b/Av