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

+ CRL.REV.P. 365/2015

MEGH SINGH Petitioner
Through: Mohd.Mobin Akhtar, Advocate.

versus

STATE (NCT OF DELHI) & ORS Respondents
Through: Mr.M.P.Singh, APP for the State.
SI Uma Dutt, P.S.Mangol Puri.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **30.06.2015**

Crl.M.A No.9155/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

CRL.REV.P. 365/2015

The petitioner had preferred a complaint before the Court below against respondents for offences under Sections 341/342/307/364/506/149/34 of the IPC. After the cognizance in the case, the Court below proceeded with the pre-charge enquiry. After examining some of the witnesses on behalf of the prosecution, the Court below was of the opinion that there was no sufficient grounds for proceeding against the accused persons. The accused persons were consequently discharged.

The complainant being aggrieved by the said order of discharge, in a most unusual manner, preferred an appeal under Section 372 of the Code of Criminal Procedure, which step is unknown in Criminal Law. Discharge under Sections 245(1) or 245(2) of the Code of Criminal Procedure could not be equated with 'acquittal' and consequently no appeal could have been filed. All that the petitioner could have done was to have such an order

revised as it was a final order and it would have been in consonance with the provisions of Section 397 (2) of the Code of Criminal Procedure.

A reference may be made to the explanation appended to Section 300 of the Code of Criminal Procedure which makes a distinction between the terms “discharge” and acquittal.

The appellate court below was absolutely misdirected in entertaining the appeal.

The present petition by way of revision is directed against the order of the appellate Court which refused to condone the delay of 40 days in filing the appeal. In fact the appellate court ought have dismissed the application and directed the petitioner to approach the appropriate forum in accordance with law. That not having been done, this Court is left with no alternative but to set aside the order passed by the lower appellate Court.

This revision petition is also dismissed.

In the interest of justice, the petitioner is given the liberty to approach the appropriate Court for challenging the order by which the respondents (accused persons arrayed in the complaint petition) have been discharged.

The application is disposed of accordingly.

JUNE 30, 2015
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ASHUTOSH KUMAR, J