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

Judgment delivered on: 16th September, 2015

+ **CRL.M.C. No.3822/2015**

AVISHEK SINGH

..... Petitioner

Represented by: Mr. M.K.Ghosh, Advocate.

Versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Mr. Hirein Sharma, APP for
the State with SI Jagtar
Singh, PS Janak Puri, Delhi.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A.No.13596/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

CRL.M.C. No. 3822/2015

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks directions thereby setting aside of the order dated 03.06.2015 passed by the learned Chief Metropolitan Magistrate (CMM), Tis Hazari Courts, Delhi, for issuing process for declaring the petitioner as 'Proclaimed Offender' and subsequent publication in case arising out of FIR No.1156/2014 registered at Police Station Janakpuri, Delhi for the offences punishable under Sections 420/34 IPC.

2. Learned counsel appearing on behalf of the petitioner submits that the alleged offence was committed in the year 2012, however, the FIR was registered on 24.10.2014. Thus, the FIR relates to an offence which was committed more than 1½ years before registration of FIR in question. On 18.06.2015, the petitioner surprised to see the proclamation in the Newspaper 'Ananda Bazar Patrika', Kolkata Edition, declaring him as 'Proclaimed Offender' in the FIR in question.

3. Learned counsel further submits that the petitioner had no knowledge about the aforesaid FIR, thus, he was not concealing or apprehending himself. Moreover, the address of the petitioner mentioned in the notice, i.e., 32/2, Madhusudan Pal Choudhury Lane, Ward No.22, Bantra Sadar, Howrah, West Bengal, is absolutely incorrect. As the petitioner is residing at 46/C/5 B.B.Ghosh Sarani, Kolkata, from the last three years and had not been residing at the address mentioned in the proclamation notice.

4. It is not in dispute that police started to contact the petitioner in the month of March, 2015. Accordingly, police team visited Howrah on 18.03.2015, where the petitioner was not available and the police team met his Aunt (Bua), who told that the petitioner has already shifted from the said place leaving no whereabouts.

5. Learned Additional Public Prosecutor appearing on behalf of the State submits that the petitioner has been absconding and has disconnected with everyone and was living in isolation to evade the arrest in this case. Therefore, finding no option, the police approached the learned Trial Court. Consequently, NBWs were issued and further

proceedings under Sections 82/83 Cr.P.C. were initiated against the petitioner.

6. Since there is a dispute qua address of the petitioner and service of proclamation notice effected on the address, therefore, I hereby quash the impugned order dated 03.06.2015 passed against the petitioner. The petitioner is directed to join the investigation at 4.00 PM on 19.09.2015.

7. In view of the above, the present petition is allowed with no order as to costs.

8. A copy of this order be given *dasti* to the learned counsel for the parties.

**SURESH KAIT
(JUDGE)**

SEPTEMBER 16, 2015

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