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

Judgment delivered on: 21st August, 2015

+ **CRL.M.C. No.3381/2015**

ARJUN CHOWDHRY

..... Petitioner

Represented by: Mr.Ratan K Singh, Mr.J.K.
Chaudhary, Mr.Manish
Kumar Choudhary, Mr.Vipul
Aggarwal, and Mr.Vinay
Vats, Advs with petitioner in
person.

versus

STATE NCT OF DELHI

..... Respondent

Represented by: Mr. Ravi Nayak, APP for the
State with SI Girish Chandra,
EOW in person.
Mr.Vineet Jhanji &
Mr.Imran Moulaley, Advs for
complainant.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

Crl.M.A.12070/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

CRL.M.C. No.3381/2015

1. Vide the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks quashing of the order dated 30.04.2015 passed by learned Additional Chief Metropolitan Magistrate,

Shahdara, Karkardooma Courts, Delhi in FIR No.612/2007 registered at Police Station Man Sarover Park, Delhi whereby NBWs were issued against him.

2. Further seeks direction for setting aside the order dated 11.08.2015 whereby the application of the petitioner for cancellation of NBW was dismissed by the above mentioned Court.

3. On perusal of the order dated 30.04.2015 it is noted that said order was passed on filing of the application by SI Girish Chandra, Section V, EOW on 30.04.2015. No reasons are given in the said order as to on what material the application was allowed.

4. Since the NBWs were issued against the petitioner, he moved an application for anticipatory bail, which was dismissed by learned Additional Sessions Judge vide order dated 16.07.2015. Thereafter, petitioner moved an application for cancellation of NBW before learned Additional Chief Metropolitan Magistrate, which was also dismissed vide subsequent order dated 11.08.2015.

5. Being aggrieved therefrom, petitioner filed instant petition. Learned counsel appearing on behalf of petitioner submits that the aforesaid case was registered in the year 2007. Thereafter, petitioner has been staying with his father at C-311, Sarita Vihar, New Delhi wherefrom his father Ajay Choudhary, co-accused in this very case was arrested on 16.11.2014 and was released on bail afterwards. After that or prior to that, petitioner did not receive any notice from the police to join the investigation. However, the Investigating Officer moved the application before learned Additional Chief Metropolitan Magistrate and got the order

dated 30.04.2015 whereby NBW were issued against the petitioner. The petitioner came to know about the same and accordingly moved the application for anticipatory bail which was also dismissed, as noted above.

6. The Investigating Officer SI Girish Chandra is personally present in the Court and has been specifically asked about any notice served upon petitioner to join the investigation prior to moving the application before learned Trial Court for issuance of NBW. Learned APP appearing on behalf of State on instructions submits that the Investigating Officer with his police officials went to the address i.e. C-311, Sarita Vihar, New Delhi and it was found locked and neighbour told them that the house was locked since 16.11.2014, thus, there was no whereabouts of the petitioner. If this version of the police is accepted then where was the occasion to move the application dated 30.04.2015.

7. It is not in dispute that the father of the petitioner Ajay Choudhary was arrested from the said address on 16.11.2014 and since then the petitioner has been staying at the said address. The State has failed to show any notice sent or served upon petitioner at his given address or any other subsequent address and has thus never asked him to join the investigation.

8. Since the case pertains to the year 2007 and there is no notice prior to issuance of NBWs against petitioner, I hereby quash the order dated 30.04.2015 and 11.08.2015 passed against petitioner whereby NBWs were issued against him and his application for cancellation of NBWs was dismissed. The petitioner is directed to join the investigation on

24.08.2015 at 04.00PM and he shall continue to join the same as and when called for by the Investigating Officer concerned.

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

10. A copy of this order be given *dasti* to the learned counsel for the petitioner.

Crl.M.A.12069/2015 (for Stay)

Dismissed as infructuous.

**SURESH KAIT
(JUDGE)**

AUGUST 21, 2015

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