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

+ W.P.(C) 2596/2007

RAJEEV MEHRA

..... Petitioner

Through: Mr.Vijay Kr.Aggarwal with
Mr.Neeraj Kr.Jha, Ms.Barkha
Rastogi, Advs.

versus

STATE

..... Respondent

Through: Mr.Rahul Mehra, Standing Counsel
with Mr.Aditya Swarup, Mr.Sanyog
Bahadur and Mr.Shekhar Budakoti,
Advs. for GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **18.01.2016**

At the outset, we would like to record the statement of the learned counsel for the petitioner that the additional grounds raised vide CM No.16918/2014, the competence of the State Government to issue notification without assent of the Lieutenant Governor is not pressed.

Therefore, we deem it appropriate that the impugned notification is required to be considered only on the ground that such a notification can be issued under the Criminal Law Amendment Act, 1932. This issue can no longer be *res integra* in view of the decision of this Court in ***Narender Kumar vs. State*** **2004 (1) JCC 303** wherein it has been held:

“23. In my view continuation of such a notification issued way back in the year 1933 without reviewing the situation from time to time is not only an affront to the

liberty of the citizens at large but has the tendency to subvert the law enacted by the Parliament and, therefore, for ends of justice and to maintain the sanctity of the law enacted by the Parliament as well as the liberty of citizens this court orders that the notification no.232-Home dated 11th January, 1933 issued by Mr.JNG Johnson, the then Chief Commissioner of Delhi declaring the offence punishable under Section 506 IPC as “cognizable” and “non-bailable” which has continued for 70 long years without any review of the factors and conditions that necessitated it, shall cease to be in operation from 15th January, 2004 till the Government takes a review of the overall situation and decides as to the necessity of its continuation.”

It is also brought to our notice that a similar view has been taken in later decisions by a Division Bench of Allahabad in ***Virender Singh and Others vs. State of U.P. and Others*** 2002 CRI. L.J. 4265 and Bombay High Court in ***Vishwajit P.Rane vs. State of Goa & Ors.*** 2011 CRI. L.J. 1289. We respectfully agree with the view expressed in the above decisions.

In view of the above, we hold that the notification issued under Section 10 of Criminal Law Amendment Act, 1932 cannot be sustained. Accordingly, notification is set aside and writ petition is allowed as prayed for.

CHIEF JUSTICE

JAYANT NATH, J

JANUARY 18, 2016/pmc