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

Judgment delivered on: 29th March, 2016

+ CRL.M.C. 770/2016

JOGINDER SINGH

..... Petitioner

Represented by: Mr. Surinder Singh, Adv.

Versus

THE STATE (NCT OF DELHI)

..... Respondent

Represented by: Mr. Amit Ahlawat, APP for
State with SI Uma Datt, PS-Mangol Puri.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. By way of the present petition filed under Section 482 Cr.P.C., petitioner seeks directions thereby quashing of FIR no. 719/96 registered at PS-Mangol Puri, Delhi for the offences punishable under Sections 468/471/120B/34 IPC and the consequential proceedings thereto pending before the Trial Court.

2. The brief facts of the case are that on 02.07.1996, complainant ASI Ramesh Kumar posted in Special Staff, North West District, Delhi was performing his duty at the barricade at outer ring road Police Post near Kali Mandir, Delhi. At that time, he received a secret information about plying of a stolen car. On receiving the information, he stopped Maruti Esteemed Car bearing no. HR-14-1477A, which was being driven by one Daljit Singh and asked him to produce documents of the Car. Accordingly, the documents were

produced, but on suspicion the said vehicle was seized under Section 102 Cr.P.C. vide D.D. No.7. However, on verification of the documents, it was found that the documents were forged and consequently FIR No. 719/96 was registered on 02.07.1996 against Daljit Singh for the offences punishable under Sections 468/471/120B/34 IPC.

3. On completion of investigation, police filed the chargesheet before the Trial Court on 12.06.1998 against Joginder Singh (petitioner herein), Daljit Singh, Kuldeep Singh and Mohd. Akram, however, till date, the charges have not been framed.

4. Ld. Counsel appearing on behalf of the petitioner submits that in the aforesaid case, police has roped four accused persons and the petitioner was arrested on the disclosure of Daljeet Singh that he took the financed Maruti Car No. DL-4C-CJ-9621 for a sum of Rs.1,10,000/- from the petitioner and he had to sell the same in Shillong by preparing a forged temporary no. HR-14-1503A from Jhajjar Authority.

5. Ld. Counsel further submits that accused Daljeet Singh, who made a disclosure statement against the petitioner had already expired and other two accused persons have been declared as proclaimed offenders. Thus, none has been attending the proceedings before the Trial Court except the petitioner. Seventeen years have already been passed. However, till date, even the charges have not been framed. Moreover, no recovery was effected from the petitioner.

6. To strengthen his arguments, Id. Counsel for the petitioner has relied upon a case of **Vakil Prasad Singh v. State of Bihar AIR 2009 SC 1822**, wherein the Supreme Court observed as under:

“16. Tested on the touchstone of the broad principles enumerated above, we are convinced that in the present case appellant's constitutional right recognised under Article 21 of the Constitution stands violated. It is manifest from the facts narrated above that in the first instance investigations were conducted by an officer, who had no jurisdiction to do so and the appellant cannot be accused of delaying the trial merely because he successfully exercised his right to challenge an illegal investigation. Be that as it may, admittedly the High Court vide its order dated 7th September, 1990 had directed the prosecution to complete the investigation within a period of three months from the date of the said order but nothing happened till 27th February, 2007 when, after receipt of notice in the second petition preferred by the appellant complaining about delay in investigation, the Superintendent of Police, Muzaffarpur directed the Deputy Superintendent of Police to complete the investigation. It was only thereafter that a fresh chargesheet is stated to have been filed on 1st May, 2007. It is also pertinent to note that even till date, learned Counsel for the State is not sure whether a sanction for prosecuting the appellant is required and if so, whether it has been granted or not. We have no hesitation in holding that at least for the period from 7th December, 1990 till 28th February, 2007 there is no explanation whatsoever for the delay in investigation. Even the direction issued by the High Court seems to have had no effect on the prosecution and they slept over the matter for almost seventeen years. Nothing could be pointed out by the State, far from being established to show that the delay in investigation or trial was in any way attributable to the appellant. The prosecution has failed to show any exceptional circumstance which could possibly be taken into consideration for condoning a callous and inordinate delay of more than two decades in investigations and the trial. The said delay cannot, in any way, be said to be

arising from any default on the part of the appellant. Thus, on facts in hand, in our opinion, the stated delay clearly violates the constitutional guarantee of a speedy investigation and trial under Article 21 of the Constitution. We feel that under these circumstances, further continuance of criminal proceedings, pending against the appellant in the court of Special Judge, Muzaffarpur, is unwarranted and despite the fact that allegations against him are quite serious, they deserve to be quashed.”

7. Ld. Counsel for the petitioner further submits that the case against the petitioner ought not to have been registered simply on the disclosure statement of Daljeet Singh, until and unless recovery is effected from the petitioner. In similar circumstances, this Court had quashed the proceedings in the case of ***Kamal Kapoor v. State Through Delhi Administration 1997 Cri LJ 2106.***

8. In the present case, person who made the disclosure statement and pursuant to which case was registered against the petitioner had already been expired and the other two accused had been declared proclaimed offenders. Moreover, name of the petitioner was disclosed pursuant to FIR no. 253/1996 registered at PS-Nabi Karim for the offences punishable under Section 379/411/34 IPC, wherein the petitioner has already been acquitted vide order dated 04.08.2001. In such eventuality, the case against the petitioner may be quashed.

9. On the other hand, Id. APP appearing on behalf of the State submits that chargesheet was filed on 12.06.1998 and thereafter the matter was adjourned as some of the accused either not appeared or declared proclaimed offenders and thus till date, the charges have not been framed.

10. Ld. APP further submits that it is a fact that the petitioner was arrested on the disclosure statement of co-accused Daljeet Singh, who expired and proceedings qua him were abetted on 01.08.2003. However, during investigation, the said Daljeet Singh disclosed that he had purchased Maruti Car No. DL 4 C CJ 9621 from the petitioner and upon verification, it was revealed that the said car was stolen from the area of PS-Nabi Karim and in this regard case FIR no. 253/1996 under Section 379 IPC was registered against the petitioner.

11. Ld. APP further submits that charges could not be framed due to the various reasons, viz., for non-appearance of accused persons, non-appearance of Investigating Officer, non-availability of ld. APP concerned, non-availability of ld. Counsel for the accused, ld. Presiding Officer being on leave, heavy rush of work with the ld. Presiding Officer etc. The framing of charges also got delayed due to the reasons that accused Mohd. Akram and Kuldeep Singh were declared as proclaimed offenders and the case had to be abated against accused Daljeet Singh due to his death.

12. The fact remains that petitioner was roped in the present case on the disclosure statement of Daljeet Singh, who had already expired and no recovery was effected from the petitioner in the present case. Moreover, petitioner has already been acquitted in the case FIR no. 253/96 registered at PS-Nabi Karim for offence punishable under Section 379/411/34 IPC. The petitioner is facing the trial since 1998 although there is no delay on his part. More than 17 years have already been passed.

13. Nothing material has been brought in the notice of this Court that delay in framing charge is caused by the petitioner. Thus, keeping the case pending for indefinite period amounts to violation of constitutional rights of the petitioner recognized under Article 21 of the Constitution of India. Moreover, a case could not have been registered against the petitioner only on the basis of disclosure statement of co-accused without any supporting material.

14. Thus, keeping in view the dictum of the Supreme Court in the case of *Vakil Prasad (Supra)* and of this Court in *Kamal Kapoor (Supra)*, case FIR no. 719/96 registered at PS-Mangol Puri, New Delhi, for the offences punishable under Sections 468/471/120B/34 IPC and the consequential proceedings thereto pending before the Trial Court are hereby quashed qua the petitioner.

15. Accordingly, the petition is allowed.

16. *Dasti.*

**SURESH KAIT
(JUDGE)**

MARCH 29, 2016

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