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

+ CRL.M.C. 1658/2016

MANOJ KUMAR Petitioner

Through: Mr.Inderjit Singh Kapur, Advocate

versus

STATE Respondents

Through: Mr.Ashok K.Garg, APP for the State
alongwith SI Dinesh Kumnar from
Police Station Nihal Vihar, Delhi.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% **02.05.2016**

Challenge in this petition under Section 482 Cr.P.C is to the order dated 23.02.2016 passed by learned Additional Sessions Judge whereby the Criminal Revision Petition bearing No.76/2012 for setting aside the order dated 09.07.2009 passed by learned Metropolitan Magistrate declaring the petitioner as proclaimed offender was dismissed.

The facts germane to the filing of the present petition, as disclosed in the petition, are that FIR dated 12.03.2009 was registered on the basis of a complaint made by Pappu Sharma alleging therein that on 11.03.2009 he alongwith others was playing Holi. A quarrel took place between Mithlesh and Sunil alias Sonu, Rakesh and Manoj. He alongwith his brother Sonu, Uppender and Patashi Devi,

brother and mother of Mithlesh tried to intervene. In the meantime Manoj hit a brick from behind on the head of his brother Sonu and his associates gave beatings to Uppender and Patashi Devi by dandas and bricks. Sonu was taken to a private doctor who gave medicines. At that time, no information was given to the police regarding the incident. However, at about 5 pm when condition of Sonu deteriorated, he was taken to DDU Hospital from where he was referred to RML Hospital. During the course of treatment Sonu expired.

Counsel for the petitioner submits that after the marriage of the petitioner differences cropped up between the family members of the petitioner and his wife as such, he alongwith his wife shifted to Rajasthan and living and working in the fields of one Madan Singh. The process server SI Kuldeep submitted report on process under Section 82 Cr.P.C stating therein that father of the petitioner namely Rajender Kumar met him and showed him cutting of newspaper disowning his son and also showed him copy of the ration card. Thereafter on the statement of the process server, he was declared proclaimed offender. The petitioner alongwith his family members returned to Delhi on 14.08.2012 and came to know about his involvement in the present case. He filed an application for grant of anticipatory bail, however, the same was dismissed on 01.10.2012. A revision petition was filed by the petitioner on 04.10.2012 for setting aside the order dated 09.07.2009 declaring him proclaimed offender alongwith an application under Section 5 of Limitation Act, however, the revision petition has been dismissed vide order dated 23.02.2016.

Counsel for the petitioner submits that petitioner was not aware about the issuance of the processes against him. It was only when he came to Delhi in the year 2012 that he came to know about this case. Thereafter necessary steps were taken by him. A perusal of the entire petition goes to show that absolutely there is no averment as to how the petitioner came to know about the proceedings of this case. Even if it is assumed for the sake of argument that he came to Delhi on 14.08.2012 as per his own averment since 2012 he is aware about the proceedings of this case but till date he has not surrendered before the Court. The FIR was registered way back in 2009 in the interregnum the co-accused have already been convicted. His application for grant of anticipatory bail was also dismissed. The petitioner is evading the process of law and thereby has succeeded in delaying the disposal of the case. The petition is absolutely bereft of any merit. The same is accordingly dismissed. The petitioner is directed to surrender before the Court immediately.

SUNITA GUPTA, J

MAY 02, 2016

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