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

DECIDED ON : 20th MAY, 2016

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CRL.M.C. 1960/2016

LUIT NEIL DON

..... Petitioner

Through : Mr.N.Hariharan, Sr.Advocate with
Mr.Siddharth S.Yadav, Mr.Sahil Paul
& Mr.Amartya Kanjilal, Advocates.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through : Mr. Amit Gupta, APP for the State.
Mr.Sudhir K.Raj, Advocate for the
complainant along with complainant
in person.
SI Sumitra Sharma, PS Rajouri
Garden.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

CRL.M.A.No.8300/2016 (Exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 1960/2016

1. Present petition under Section 482 Cr.P.C. has been filed by the petitioner to challenge the legality and correctness of order dated 22.04.2016 of learned Metropolitan Magistrate and order dated 30.04.2016 of learned

Addl. Sessions Judge whereby they declined to cancel non-bailable warrants issued against him.

2. I have heard the learned Senior Counsel for the petitioner and have examined the file. Learned Senior Counsel urged that the petitioner was not served with the process as he was away to Guwahati (Assam). The petitioner is ready and willing to join the investigation.

3. On perusal of the record, it reveals that the petitioner is facing trial in case FIR No.67/2016 under Sections 376/354/509/34 IPC registered at PS Rajouri Garden on the written complaint made by 'X' (assumed name). The matter is still under investigation. The petitioner was directed to join the investigation and notice under Section 41A Cr.P.C. was issued to him. However, the petitioner did not join the investigation. Thereafter, an application for anticipatory bail moved before the learned Sessions Court was dismissed. Copy of the said order has not been placed on record. Even after dismissal of the anticipatory bail application before the Sessions Court, the petitioner did not participate in the investigation. Proceedings under Sections 82 Cr.P.C. have been initiated against him.

4. Contents of the petition reveal that a petition under Section 482 Cr.P.C. has already been filed by the petitioner to challenge the order dated 02.03.2016 and 30.03.2016 before this Court. Copy of the said petition has not been placed on record to ascertain as to for what purpose the said petition has been filed and what orders have been passed therein. Record further reveals that the said petition is come up for hearing on 29.07.2016.

5. Till date, the petitioner has not joined the investigation despite numerous opportunities given by the Investigating Officer. He is approaching the investigating agency through his wife to offer his defence.

Since the petitioner had avoided his appearance before the Investigating Officer to join the investigation, the learned Metropolitan Magistrate committed no illegality to issue non-bailable warrants against him to procure his presence.

6. Concurrent findings of the Courts below based on fair appreciation of facts need no intervention.

7. The petition lacks merit and is dismissed.

8. Copy of the order be sent to the Court concerned for information.

(S.P.GARG)
JUDGE

MAY 20, 2016 / tr