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

+ CRL.M.C. 3306/2016 & CrI.M.A. 14056/2016

ARVIND KEJRIWAL

..... Petitioner

Represented by: Mr. Sudhir Nandrajog, Sr. Adv.
with Mr. Trideep Pais and Mr.
Pranav Jain, Advs.

versus

STATE & ORS

..... Respondent

Represented by: Mr. Hirein Sharma, APP.
Mr. Mohit Mathur, Sr. Adv.
with Mr. Madhav Khurana and
Mr. Vinay P. Tripathi, Advs.
for R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

06.12.2016

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1. The petitioner is facing trial in complaint case No.201/1/13 titled as Amit Sibal Vs. Arvind Kejriwal & Ors. pending in the Court of Metropolitan Magistrate-05, New Delhi District, Patiala House Court, New Delhi wherein he has been summoned for offences punishable under Section 500 read with Section 34 IPC.

2. The petitioner had been seeking exemption for appearing before the Trial Court and he filed an application on 18th April, 2015 seeking permanent exemption from appearance through counsel till further orders. The grounds taken in the application were that the petitioner is the Chief Minister of Delhi and for this reason he has to frequently travel within the State and outside the State for exigencies of work, promotion and expansion of his party. The petitioner also stated that he had no objection to the proceedings being conducted, in his defence and/or recording of

prosecution/complainant's evidence in his absence and in the presence of his undersigned lawyers which included the name of Mr. V.K. Ohri, Mr. Rahul Mehra, Mr. Rishkesh Kumar and Ms. Neha Rastogi, Advocates. The petitioner also undertook that he shall not object to recording of a plea on his behalf by his counsel for taking evidence in his absence and will also not dispute the identity of witnesses and shall not take any objection of similar nature. He also agreed that he will not dispute his identity.

3. The main grievance of the respondent is that the trial is protracted for one reason or the other. When the petitioner is exempted, his lawyers are taking unnecessary adjournments on various pretexts and once permanent exemption is granted to the petitioner, the trial will get delayed.

4. When this matter came up before this Court on 8th September, 2016 while issuing notice this Court clarified that due to non-presence of the petitioner, the proceedings before the Trial Court will not be adjourned and the petitioner will file an affidavit before the Trial Court not disputing his identity.

5. Learned counsel for the respondent No.2 points out that despite order dated 8th September, 2016 when the matter came up before the learned Trial Court on 17th September, 2016 the affidavit in terms of order dated 8th September, 2016 passed by this Court was not filed. Learned senior counsel for the petitioner points out that the affidavit had been filed before the learned Trial Court immediately on the next date.

6. Learned counsel for the petitioner undertakes that in case this Court grants permanent exemption to the petitioner, a detailed affidavit not disputing the statements and pleas of the counsel on behalf of the petitioner or witnesses' or petitioner's identity will be filed before the learned Trial

Court within a week from today.

7. Considering the nature of duties required to be performed by the petitioner, it would be in the interest of justice to grant the petitioner permanent exemption from appearance before the learned Trial Court through counsel. It is therefore directed that the petitioner is exempted from appearance before the learned Trial Court through counsel duly nominated on his behalf on the petitioner filing an affidavit neither disputing the recording of the pleas on his behalf by the counsel nor evidence in his absence nor disputing the identity of the witnesses nor his own identity nor raising objection of similar nature. It is further clarified that if on any specific date the learned Trial Court needs presence of the petitioner, he will be directed to appear in person which order will be duly complied with by the petitioner. In case the learned Trial Court finds that unnecessary adjournments are being sought by learned counsel through whom the petitioner is exempted or the learned counsel who addresses the arguments on behalf of the petitioner or is conducting the trial or senior counsel engaged by the petitioner, learned Trial Court would be at liberty to modify this order granting permanent exemption to the petitioner from appearance before the Court through counsel. Respondent would also be at liberty to file an application in this regard if the facts so warrant.

8. Petition is disposed of.

9. Order dasti to learned counsel for parties.

MUKTA GUPTA, J.

DECEMBER 06, 2016

‘vkm’