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

+ W.P.(CRL) 2416/2014

E.G.PRAKASH & ORS

..... Petitioners

Represented by: None

versus

THE STATE NCT OF DELHI

..... Respondent

Represented by: Mr.Rajesh Mahajan, Additional
Standing Counsel

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

ORDER

% **31.05.2016**

1. Impugned judgment/order dated April 25, 2008 records conviction of the petitioners on a plea of guilt as per application filed and statement made to said effect on April 23, 2008. Vide order on sentence of even date the writ petitioners have been directed to undergo RI for 2 years; having been convicted for the offence punishable under Section 489C IPC.
 2. The petitioners had filed an appeal which was registered as Crl.A.No.444/2008 but vide order dated November 25, 2014 was directed to be converted into a writ petition.
 3. The record of Sessions Trial No.95/1999 is available in this Court. The same would evince that the petitioners were on bail. Evidence was being recorded. On March 18, 2008, learned ASJ directed Insp.Rakesh Dixit to be present for being examined on April 02, 2008. Order dated April 02, 2008 records that Insp.Rakesh has been examined as PW-8 and is
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discharged. Next date for remaining prosecution evidence was fixed as April 11, 2008, on which date no witness of the prosecution was available and hence the matter was listed for April 23, 2008 on which date, the order records that the accused have moved an application to plead guilty and avail the benefit of plea bargaining, a concept introduced when Chapter XXI A was inserted in the statute book with effect from July 05, 2006.

4. The order of April 23, 2008 records that the application moved by the accused is taken on record and the matter stood adjourned to April 25, 2005, on which date the order on conviction and sentence have been passed.

5. Now, the procedure contemplated when a plea of guilt is entered into has not been followed. The learned Judge has not recorded the opinion required as per sub-Section 4 of Section 265A that accused have been examined in camera and a satisfaction is recorded that the accused have filed the application voluntarily. Section 265C has been violated. Neither the public prosecutor nor the police officer who had investigated the case were put to notice. Section 265D has also been violated which contemplates *‘where in a meeting under Section 265C, a satisfactory disposition of the case has been worked out, the Court shall prepare a report of such disposition which shall be signed by the presiding officer of the Court and all other persons who participated in the meeting and if no such disposition has been worked out, the Court shall record such observation and proceed further in accordance with the provisions of this Code from the stage the application under sub-Section (1) of Section 265 B has been filed in such case’*.

6. Under the circumstances the writ petition is disposed of setting aside

the order of conviction dated April 25, 2008 as also the order imposing sentence of even date.

7. Proceedings emanating from FIR No.234/99 PS S.N.Puri for an offence punishable under Section 489B/489C/341 IPC are restored.

8. At the remand the learned ASJ shall issue summons to the accused whom I note are on bail as of today in terms of the order dated May 21, 2008 passed by this Court. The accused shall continue to be on bail during the trial and the bail bond and surety bond furnished pursuant to the order dated May 21, 2008 shall be transposed in the file of the Sessions Trial.

9. TCR be returned.

PRADEEP NANDRAJOG, J.

MAY 31, 2016

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