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

+ **CRL.M.C. 4354/2016**

MUKESH BHARGAV

..... Petitioner

Represented by: In person.

versus

STATE OF DELHI & ORS

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP
Ms. Yoothica Pallavi, Adv. for
DJB/R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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22.11.2016

Crl.M.A. 18180/2016

Exemption allowed, subject to all just exceptions.

Crl.M.C. 4354/2016

1. Notice was framed against the petitioner under Section 251 Cr.P.C. for offence punishable under Section 101/79(1) of the Delhi Jal Board Act, 1998 (in short ' DJB Act') on the allegations of unauthorised water connection, allowing filth and garbage to flow in drain on 26th August, 2016 by the then Spl.MM D.S. Panwar.
2. Vide the final order dated 6th September, 2016 the petitioner was convicted for offences punishable under Sections 34(1), 79(1), 101(1) of DJB Act and sentenced to pay fine of ₹10,000/-, ₹5000/-, ₹2000/- and default fine of ₹48,000/- thus making a total of ₹65000/- as the petitioner Mukesh Bhargav had pleaded guilty. The petitioner deposited the fine imposed however challenged the order of conviction dated 6th

September, 2016 before the learned Additional Sessions Judge. When the appeal came up before the learned Additional Sessions Judge, the learned Court noted that the order of conviction was passed by D.S. Panwar, Spl. MM and the same person who had passed the judicial order was appearing as a counsel for Mukesh Bhargav, the petitioner herein. Thus having perused the signatures and other facts, learned Additional Sessions Judge dismissed the appeal with costs of ₹10,000/- on D.S. Panwar Enrollment No.UP-03688/2011 and also sent copy of the order to the Secretaries, Delhi Bar Council and Bar Council of India for information and suitable action against D.S. Panwar.

3. The limited grievance of the petitioner is the dismissal of the appeal. As regards D.S. Panwar this Court in CrI.M.C. 4349/2012 has already upheld the imposition of costs on D.S. Panwar and the direction sending of copy of order to the Secretaries, Bar Council of Delhi and Bar Council of India for information and suitable action. However, considering the fact that the petitioner who may be an innocent litigant and was not aware that the person who passed the judicial order cannot appear as a counsel in the same matter in appeal, the appeal ought to have been heard on merits by the learned Additional Sessions Judge after either permitting Mukesh Bhargav to engage another counsel or by providing him *amicus curiae*.

4. Consequently, upholding the impugned order dated 27th October, 2016 imposing costs of ₹10,000/- on D.S. Panwar and directing sending of copy of order to Secretaries, Bar Council of Delhi and Bar Council of India for information and suitable action against D.S. Panwar, the impugned order to the extent it dismisses the appeal is set aside. The appeal will be listed before the learned Additional Sessions Judge on 12th December, 2016 when

the petitioner Mukesh Bhargav will appear before the Court. The appeal will be decided on merits.

5. Petition is disposed of.

MUKTA GUPTA, J.

NOVEMBER 22, 2016
‘v mittal’