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

+ CRL.M.C.4786/2016 & CrI.M.A.No.19903/2016.

RAVINDER SINGHPetitioner

Through: Mr. Amit Rao, Advocate.

Versus

STATE & ANRRespondent

Through: Mr. Ashok Kr. Garg, APP for the State with
SI Dharmendra Pratap Singh, PS Samaipur
Badli, Delhi.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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15.09.2017

1. By way of the present petition filed under Section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') the petitioner seeks **acquittal** on the ground that complainant is not traceable, in FIR No. 203/2002 under Sections 407/411 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at P.S Samaypur Badli, Delhi. Status report is on record.
2. The present case was registered on the complaint dated 30.05.2017 of one Jashwant Rai/owner of stolen property, that, goods in truck bearing No. HR-38D-2706 which were dispatched for Hyderabad from New Delhi did not reach Hyderabad.
3. During investigation, it was found that a gang was operational in the area of Indore and Devas, M.P who purchased the goods from

truck drivers and sold it illegally. On 09.04.2002, some steel utensils, gas stove and stationary etc. were recovered at Devas, M.P which were identified by the complainant. Chargesheet against the present petitioner and other accused/Pradeep Jain was filed before the Metropolitan Magistrate on 30.05.2002. During the trial of the case the co-accused/Pradeep Jain expired and so his proceedings were abated vide order dated 30.11.2009 whereas the other co-accused persons could not be arrested and were declared Proclaimed Offenders.

4. Mr. Amit Rao, learned counsel for the petitioner argued that the petitioner has been falsely implicated in the present case as there are neither any direct allegations against the petitioner nor has the petitioner been named in the said FIR; that no articles belonging to the complainant have been recovered from the possession of the petitioner; that as per the order of the Trial Court dated 20.08.2015 the complainant is not traceable; that all the summons calling upon the complainant, issued by the Trial Court on multiple dates have been returned unserved; that the petitioner has already faced trial in this case for the last 14 years i.e. from 2002 to 2016; that as the complainant is not traceable further continuation of the proceedings against the petitioner would result in grave miscarriage of justice and therefore acquittal be granted.
5. On the other hand, Mr. Ashok Kr. Garg, learned APP for the State opposed the petitioner's prayer and submitted that the charges against the petitioner have already been framed under Section 411

IPC; and that the trial in the case has just begun.

6. I have heard the learned counsel for the parties and perused the Trial Court Record.
7. On perusal of the Trial Court Record, it is observed that charges against the petitioner were framed by the Metropolitan Magistrate, Rohini, Delhi on **04.01.2013** and thereafter matter was fixed for prosecution evidence on **15.02.2013**. However since the date so fixed, summons calling upon the complainant and other prosecution witnesses were issued by the Trial Court on multiple dates but every time the same were returned unserved. Also vide order dated **20.08.2015** the complainant was reported to be 'untraceable'. On the last date of hearing fixed by the Trial Court i.e. 30.08.2017 the matter was again adjourned to **22.12.2017**.
8. It is apparent from the record that the proceedings in respect of the petitioner who has been charged for an offence under Section 411 IPC, are pending in the Trial Court for over 15 years and there has been an extensive delay in the conduct of the same.
9. In ***Dhanlakshmi v R. Prasanna Kumar*** reported ***1989 SCR Supl. (2) 165*** in the Apex Court observed that:

"Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of court. In proceedings instituted on complaint exercise of the inherent power to quash the proceedings is called for only in cases where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate

it is open to the High Court to quash the same in exercise of the inherent powers under Section 482. It is not, however, necessary that there should be a meticulous analysis of the case, before the trial to find out whether the case would end in conviction or not. The complaint has to be read as a whole. If it appears on a consideration of the allegations, in the light of the statement on oath of the complainant that ingredients of the offence/ offences are disclosed, and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court."

10. Keeping in view the observations made by the Apex Court and the facts and circumstances of the present case, no interference with the proceedings of the Trial Court is called for. However the Trial Court shall ensure expeditious conclusion of the proceedings on or before **21.12.2017** in accordance law.
11. Accordingly, the petition stands disposed of so also pending application(s), if any.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 15, 2017

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