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

+ **W.P.(CRL) 2783/2017 and Crl. M.A. No. 16018/2017 (stay)**

SH ASHWANI GAUR

..... Petitioner

Represented by: **Mr. Vinod K. Singh, Advocate.**

versus

NCT OF DELHI & ANR

..... Respondents

Represented by: **Ms. Richa Kapoor, Additional
Standing Counsel for the State
with Mr. Ashish Negi,
Advocate with ASI Phool
Singh, PS Lodhi Colony.
Mr. B.C. Kailay, Advocate for
respondent No.2.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

18.12.2017

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1. The prayer in the present petition is:

“a. Quash the FIR no.113/17 registered at P.S. Lodhi Colony on 04.08.2017 under Section 174A of IPC as ordered vide order dated 27.05.2017 in the complaint no. 2278/15 (New no 628475/16) pending before the court of Smt.Tanya Bamniyal Ld. MM South East, Saket, New Delhi”

2. The petitioner had earlier filed a petition being Crl. M.C. No. 3427/2017 inter alia praying that no coercive action be taken against him for not appearing before the learned Trial Court in complaint No. 2278/15 (New **W.P.(CRL) 2783/2017**

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no 628475/16). In the said petition under Section 482 Cr.P.C. the petitioner also prayed for quashing of the FIR in question for which the present petition has been filed. Crl.M.C. No. 3427/2017 was disposed of by this Court vide order dated 29th August, 2017 on the following terms:

“This case has come on transfer from the Court of Hon'ble Mr. Justice A.K. Pathak as he is on leave today.

The petitioner has sought quashing of the complaint No. No.2278/2015 (New No.628475/2016) pending before the Court of learned Metropolitan Magistrate, South East, Saket, New Delhi and other previous orders by which coercive action has been taken against him for not appearing before the Trial Court. The petitioner has also prayed for quashing of the FIR which has been registered under Section 174A of the IPC.

Learned counsel for the petitioner, during the course of arguments, has limited his prayer to the recall of the order dated 10.08.2017 and other orders of the Trial Court whereby non bailable warrants of arrest have been issued against him and he has been declared a proclaimed offender. Learned counsel for the petitioner submits that he shall be filing a separate petition seeking quashing of the FIR which has been registered under Section 174A of the IPC.

Pursuant to the complaint lodged by the respondent, a notice was issued to the petitioner at two addresses. The addresses are as follows:-

- 1. B-59, Sector 30, Noida, U.P*
- 2. B-1/40-41, New Kondli, Main Market, New Delhi*

The petitioner submits that he resides at a different address which is B-1/4684, Balbir Nagar Vistar, Delhi. It is because of this fact that the notice was not received by the petitioner. Even the bailable and non bailable warrants of arrest could not be executed because the petitioner never resided at the two addresses which have been provided in the complaint petition as well as in the notice. The same addresses were noted in the warrant of arrest as well. After the petitioner came to know about the aforesaid developments, he approached the Trial Court for his appearance which was rejected. The petitioner tried to assail the order of the Trial Court before the superior Court in the revision but since the orders challenged were interlocutory in nature, the aforesaid revision petition was withdrawn.

Hence the present petition.

The explanation provided by the petitioner appears to be plausible. There could not have been any other reason for the petitioner for not participating in the trial or responding to the notice but for the notice not being served to him.

Taking the aforesaid facts into account the orders dated 10.08.2017, 28.09.2015, 12.01.2016, 01.09.2016 and 27.05.2017 are set aside.

The petitioner is directed to appear before the Trial Court on 03.10.2017, the next date fixed in the aforesaid case.

The present petition is allowed to the extent indicated above.

Dasti.”

3. A petition for the prayers sought in the present petition having already been disposed of by this Court no further petition would lie and the consequence of the earlier order dated 29th August, 2017 would follow.

Petition and application are dismissed.

MUKTA GUPTA, J.

DECEMBER 18, 2017/‘vn’