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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C.4680/2017, CrI.M.A 18623/2015, CrI.M.A.18624/2017 &
CrI.M.A.18625/2017 (Stay)

BABU RAM SANDAL & ORS.Petitioner
Through: Mr. I.S. Alag Sr. Adv. With Mr. A.K
Verma, Ms. Ashu Rani, Advocates.

Versus

STATE (GOVT. OF NCT OF DELHI) & ORS.Respondent
Through: Mr. Akshai Malik, APP for the State
with ACP Mahender Kumar, ACP
Gokalpuri SI umesh sati, SI Ashish
Kumar.

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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14.11.2017

CrI.M.A 18623/2015 & CrI.M.A.18624/2017(Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C.4680/2017 & CrI.M.A.18625/2017 (Stay)

By way of the present petition filed under Section 482 of Cr.P.C., the petitioners seek to challenge legality, propriety and correctness of the summoning order dated **18.07.2017** passed by the Metropolitan Magistrate/NE/KKD Courts, Delhi in case FIR No.519/15, whereby the learned Magistrate took cognizance against the petitioners for offence punishable under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC & ST Act of 1989').

The subject FIR was registered at the instance of Respondent No.2 herein, against the petitioners for offence under Section 354 A IPC and

Section 3 of the SC & ST Act of 1989 .

Mr. I.S. Alag, learned Senior Counsel for the petitioners submits that the summoning order dated 18.07.2017, passed by the Magistrate, is illegal and perverse as the Magistrate has no authority and power to issue summons under the SC & ST Act of 1989, as only the designated Court is authorized to take cognizance of offences alleged to be committed under the SC & ST Act of 1989.

Mr. Akshai Malik, learned APP for the State concedes to the contentions raised by the learned counsel for the petitioner and submits that the Magistrate has exceeded his jurisdiction by issuing the summons for the offence under Section 3 of the SC & ST Act of 1989.

Heard.

The learned Magistrate, upon perusal of the charge sheet filed under Section 173 Cr.P.C, statement of the witnesses and other material placed on record, took cognizance of offence under Section 354A/34 & Section 3 of the SC & ST Act of 1989 against the petitioners vide order dated 18.07.2017, and directed for issuance of summons to the petitioners

By virtue of Section 14 of the SC & ST Act of 1989, jurisdiction and power to take cognizance has been specifically conferred upon the Special Court, which reads as under:-

" 14. Special Court and Exclusive Special Court.—(1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts: Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the

Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act:

Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act. (2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible. (3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing: Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet. "

Under Section 2 (d) of the SC & ST Act of 1989, the Special Court has been defined as under:-

"Special Court means a Court of Session specified as a Special Court in Section 14."

In view of the above mentioned provisions of law, the Magistrate had absolutely no jurisdiction to entertain and take cognizance of the offence under Section 3 of the SC & ST Act of 1989. Therefore, by no stretch of imagination, the impugned order directly taking cognizance of the offence under Section 3 of the SC & ST Act of 1989, can be held to be the valid exercise of jurisdiction by the Trial Court.

Accordingly, it is held that the order dated 18.07.2017 passed by the Magistrate directly taking cognizance of the offence under Section 3 of the SC & ST Act of 1989 is without jurisdiction and without authority of law and runs contrary to Section 14 of the SC & ST Act of 1989 read with Section 193 of the Cr.P.C. Therefore the order dated 18.07.2017 is set-aside.

With the above observations, the petition stands disposed of.

Crl.M.A.18625/201(Stay).

In view of the above Order, the application seeking stay is rendered infructuous.

Application stands disposed of.

Copy of this Order be given dasti, under the signatures of the Court Master.

SANGITA DHINGRA SEHGAL, J.

NOVEMBER 14, 2017

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