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

+ CRL.M.C. 1192/2018 & CRL.M.A. 4330-4331/2018

SITA RAM GUPTA

..... Petitioner

Through

Mr. Kaushal Yadav, Mr. Nandlal K.
Mishra, Mrs. Sunita Yadav, Advs.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through

Mr. Panna Lal Sharma, APP for State
with SI Gaurav PS Vivek Vihar.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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08.03.2018

The present petition is under Section 482 of the Code of Criminal Procedure, 1973 filed by the petitioner assailing the impugned order dated 05.02.2018 of the learned CMM, Shahdara, Karkardooma Courts, Delhi in FIR No. 303/07 PS Vivek Vihar whereby it has been observed to the effect that prima facie offences punishable under Sections 419, 420/467/471 of the Code of Criminal Procedure, 1973 were made out and charges were framed accordingly against the petitioner to which he pleaded not guilty and claimed trial and the matter was fixed for prosecution evidence for 08.03.2018 i.e. for the day.

On behalf of the petitioner, the submissions are confined to the effect that the proceedings in the matter be remanded back to the learned Trial Court in as much as the petitioner was not heard on the aspect of the charge submitting *inter alia* to the effect that the petitioner has been addressing

arguments since the date 08.10.2008 and it was only on the date 05.02.2018 when the learned counsel for the petitioner could not put in appearance submitting to the effect that the learned counsel for the petitioner had personal difficulty and had to go out to Allahabad and on the said date it was observed to the effect that the arguments on the point of charge were heard on behalf of the State. The impugned order dated 05.02.2018 categorically indicates that arguments of the petitioner on the date 05.02.2018 were not heard and apparently the petitioner was addressing arguments since the year 2008.

In the circumstances, learned APP for the State fairly submits that the matter be remanded back to the learned Trial Court

Though undoubtedly the petitioner could have chosen redressal before the learned Sessions Court in the matter, in the interest of justice as apparently the impugned order dated 05.02.2018 does not provide any opportunity of being heard to the petitioner, which is in total violation of the principles of natural justice, in terms of the Section 482 of the Code of Criminal Procedure, 1973, the petition is allowed and the impugned order dated 05.02.2018 of the learned CMM, Shahdara, Karkardooma Courts, Delhi whereby it has been observed to the effect that prima facie offences punishable under Sections 419, 420/467/471 of the Indian Penal Code, 1860 were made out is set aside with the directions that the proceedings are remanded back to the learned CMM, Shahdara, Karkardooma Courts, Delhi in relation to the FIR No. 303/07 PS Vivek Vihar to give a single opportunity to the petitioner to address arguments in relation to the aspect of framing of charge or otherwise.

The parties are directed to appear before the learned Trial Court on dated 15.03.2018 for addressing arguments on charge.

Copy of this order be sent to the learned Trial Court.

Copy of the order be given *Dasti* under the signatures of the Court Master.

ANU MALHOTRA, J

MARCH 08, 2018/MK