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

+ **CRL.M.C. 1994/2018**

PAPPU

..... Petitioner

Through Mr. G.S. Sharma, Adv. and Mr.
V.K.Sharma, Adv.

versus

STATE GNCT OF DELHI

..... Respondent

Through Mr. Kewal Singh Ahuja, APP for
State with SI-Naveen Malik, PS
Aman Vihar

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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18.04.2018

Notice of the petition issued to the State and is accepted on behalf of the State by the learned APP.

Submissions have been on behalf of either side.

Vide the present petition, the petitioner assails the impugned order dated 21.03.2018 of the Court of the ASJ, Special FTC, North West Rohini whereby, the application under Section 233(3) of the applicant/accused in FIR No.435/14, PS Aman Vihar seeking issuance of summons to certain witnesses to be examined in defence specifically, the FSL Expert and the Ahlmad of the learned Court of the MM, Mr. Anurag Thakur in relation to the FIR No. 435/14, PS Aman Vihar (which is stated to have been erroneously mentioned as FIR No. 434/14 in the impugned order) apart from seeking the summoning the Record Clerk of the Director FSL/ Appellate Authority in relation to an appeal u/s 19 of RTI Act which were all

declined vide the impugned order observing to the effect that none of the witnesses sought to be examined in relation to the aspect sought to be examined were relevant and that only dilatory tactics were only being adopted by the applicant.

Though the application is opposed on behalf of the State in view of the submissions that have been made on behalf of the petitioner by the learned counsel for the petitioner that the examination of the FSL Expert in relation to the chart prepared by the expert and the report of the PIO to the extent submitting that the time period for examination of semen and blood would be brought forth through the FSL experts and through the report also that had been received by the PIO, FSL and that vide production of the requisite record in relation to FIR No. 435/14, PS Aman Vihar in which the accused/petitioner is facing trial, the applicant would be able to bring forth the aspect of delay in receipt of the FIR by the MM concerned which is indicated to have been registered on 04.05.2014 with the FIR having been delivered on 05.05.2014 after much delay, it is considered appropriate to allow the prayer made by the petitioner seeking setting aside of order dated 21.03.2018 and the application under Section 233(3) of the Cr.P.C., 1973 filed by the petitioner seeking summoning of the witnesses by the said application dated 09.03.2018 at Sr. No. 1 to 3, i.e.,

(1) Ahlmad from the Court of Sh. Pooran Chand, Ld. ASJ, the Successor Court of Sh. Ashwani Sarpal, the then Ld. ASJ, Court no.34, KKD Courts, Delhi relating to Case FIR no. 10/12 titled as State Vs. Vicky, decided on 17.10.2017. This witness will bring the

FSL Report alongwith Chart prepared by Chemical Examiner, Smt. Poonam Sharma, who is also witness in this case.

(2) Record Clerk/ Ahlmad from the Court of Sh. Anurag Thakur relating to case FIR No. 435/14, u/s 302 of the IPC registered at PS Aman Vihar, received by the Ahlmad the copy of aforesaid FIR u/s 157 Cr.P.C. alongwith register maintained for receipt of the FIR copy.

(3) Record Clerk of Director of FSL/ Appellate Authority relating to Appeal filed by Sh. G.S. Sharma Advocate against the RTI order dated 02.05.2017 by PIO of FSL, Rohini, Delhi. This witness will prove that the order passed by Director of FSL pertaining to appeal filed by Sh. G.S. Sharma Advocate is allowed, with the said witnesses sought to be examined and the said witnesses be summoned for the date for hearing to be fixed by the learned Trial Court.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

APRIL 18, 2018
NC