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

+ CRL.M.C. 1453/2016 & CRL.M.A. 6209/2016

VINAY KUMAR

..... Petitioner

Through: Mr. Kedar Yadav with Mr. Harkaran
Singh & Mr. Sanjeev Kr. Baisoya &
Ms. Aabha Singh, Advocates.

versus

STATE OF DELHI

..... Respondent

Through: Ms. Meenakshi Dahiya, APP for
State with SI Pawan Singh, PS EOW.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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07.08.2018

The petition at hand questions the order dated 10.07.2013 of the Chief Metropolitan Magistrate in criminal case arising out of FIR No.141/2010 of Police Station EOW Crime Branch whereby charge has been found to be made out against the petitioner, for putting him on trial for offence punishable under Sections 420/467/468/471 read with Section 120-B of the Indian Penal Code, 1860 (IPC) and the order dated 11.01.2016 of the court of Sessions dismissing the revision petition (CR No.44241/15) against the former order.

While the Additional Public Prosecutor for the State concedes that there is no opinion of forensic expert confirming the signatures and thumb impression in the record of MCD to be matching with that of petitioner, she submits that there is connecting evidence available to the effect that there was a bank account opened in the name of the petitioner where the salary was remitted from time to time, withdrawals therefrom having been made by

the petitioner. The counsel for the petitioner refutes that any such evidence was placed before the trial court. He and the Additional Public Prosecutor, however, fairly concede that such part of the evidence is not discussed in the order dated 10.07.2013 of the Chief Metropolitan Magistrate or in the order dated 11.01.2016 of the revisional court in Cr. No.44241/15.

In view of the above, the proper course would be to remit the matter to the Chief Metropolitan Magistrate for fresh consideration of the question of charge against the petitioner. Consequently, the orders framing charge against him is set aside. The matter to that extent is re-opened. The Chief Metropolitan Magistrate shall hear the parties, *i.e.* The State and the petitioner and pass a fresh detailed order taking into account the evidence in entirety on the question of charge.

The petition stands disposed of with these directions.

Trial court record shall be returned forthwith.

Dasti.

R.K.GAUBA, J.

AUGUST 07, 2018
srb/vk/uj

CRL.M.C. 1453/2016

Page 2 of 2