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

+ CRL.REV.P. 463/2018 & CRL. M.A. 9771/2018

NITI CHOPRA & ANR Petitioners

Through Mr. Mohit Mathur, Sr. Adv with
Mr.Sanjay Gupta, Mr. Ateev Mathur,
Ms. Jagriti Ahuja, Advs.

versus

MANJU SAXENA Respondent
Through Respondent in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **24.05.2018**

A perusal of complaint shows that the Chief Executive Officer of M/s Honkong & Sanghai Banking Corporation Ltd (hereinafter referred to as "HSBC"), Ms. Niti Chopra and Sh. Shishir Agarwal have been arrayed as accused nos. 1 to 3. They filed three petitions under Section 482 Cr.P.C. being CRL M.C. Nos. 2046/2009, 2447/2009 and 2551/2009 for quashing of the complaint. These petitions were disposed of by a common order dated 28th January, 2014; whereby petitioners were given liberty to raise all the points taken in the petition before the Trial Court at the stage of framing of charge. It was further ordered that till arguments on the point of framing of charge are concluded, personal appearance of petitioners be not insisted upon by the Trial Court, provided petitioners are duly represented through counsel, who do not seek adjournment. Certain other directions were also

given with which we are not concerned in this petition.

Petitioners as well as Honkong & Sanghai Banking Corporation Ltd assailed the order dated 28th January, 2014 before the Supreme Court by filing Special Leave Petitions bearing Nos.2364/2017, 4095/2014 and 4675/2014. The Special Leave Petitions were disposed off, vide a common order dated 09th September, 2015 which reads as under:-

“Having considered the totality of the facts and circumstances of these cases, we consider it just and appropriate to relegate the controversy back to the trial court, and require the trial court to permit the petitioners before this Court to Cross-examine the witnesses produced by the complainant, including the right to confront the said witnesses, with documents available with the petitioner.

Having given the aforesaid liberty, we request the trial to proceed to examine the controversy under Section 245 of the Code of Criminal Procedure, 1973, and to pass an appropriate order in accordance with law. Needless to mention that the trial court will not be influenced by any of the observations made either by the High Court or by this Court.

Insofar as the personal appearance of the petitioners is concerned, the trial court shall abide by order dated 15.07.2009 passed by the High Court.

The Special leave petitions are disposed of in the above terms. As a sequel to the above, all pending interlocutory applications stand disposed of.”

The Supreme Court made it clear that insofar as the personal appearance of petitioner is concerned, trial court shall abide by the order dated 15th July 2009 passed by the High Court.

A perusal of order dated 28th January, 2014, passed by the learned Single Judge coupled with the order dated 09th September, 2016 of the Supreme Court makes it clear that all the petitioners were exempted from personal appearance before the Trial Court till the

arguments on the point of framing of charge are concluded. Accordingly, in my view, Trial Court has erred by holding that only petitioner no.1/Mr. Stuart Davis/CEO of HSBC/ Accused no.1 was exempted from personal appearance.

Impugned order is set aside to this effect. Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

Dasti.

A.K. PATHAK, J

MAY 24, 2018

Pallavi