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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2887/2015 & CRL.M.A.10294/2015**

RAHUL GUPTA

..... Petitioner

Through: Mr. Sunil K. Mittal with Ms. Deepti
Gupta, Advs.

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Ravi Nayak, APP for the State
SI Sanjay Kumar, IGIS/Crime Branch
Mr. Deepak Pandey, proxy for
Mr.Saurabh Kansal, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
13.07.2018

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The petitioner is one of the accused persons who have been summoned as accused on the basis of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted on conclusion of investigation into FIR No.195/2005 of Police Station Vasant Vihar statedly involving offences punishable under Sections 447 / 448 / 461 / 467 / 468 / 471 / 474/506/120B IPC. The criminal case arising out of the said charge sheet had come up before the Chief Metropolitan Magistrate (South) on 20.02.2014. By order passed on the said date, charges were framed against the petitioner for offences punishable under Sections 120B/471/474/448/461/506(I) IPC. The petitioner challenged the said order

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before the court of Sessions invoking its revisional jurisdiction by Criminal Revision No.35/2014. The said revision petition was dismissed by the Additional Sessions Judge by order dated 02.05.2015 partially modifying the order framing charge – the petitioner being still dissatisfied, the said order being under challenge by the petition at hand invoking the inherent jurisdiction of this court under Section 482 Cr.P.C.

Though the petition has been filed also questioning the view taken by the two courts below on merits, the learned counsel for the petitioner pressed the petition primarily on the ground of procedural error and irregularity. He has placed on record copy of the proceedings recorded by the revisional court from 02.04.2014 till the date the impugned order was passed. A perusal of the said proceedings would show that the court of Additional Sessions Judge presided over by a particular judicial officer on 02.04.2014 had heard the matter at length and had even secured clarification, the matter having remained pending at the stage of consideration/orders when there was a change in the presiding judge. A new judicial officer took over the court w.e.f. 20.10.2014, she eventually passing an order disposing of the revision petition on 02.05.2015. The proceedings recorded by her could show that the petitioner did not have the opportunity to address oral arguments. Written arguments pursuant to the liberty granted on 26.11.2014 were filed but then an application had been made on 01.12.2014, in advance of the date 10.12.2014, with the prayer that a date be fixed for oral submissions to be made. The said application was never taken up for disposal. It also needs to be noted that the learned Additional Sessions Judge by her proceedings dated 23.12.2014 had indicated that some

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clarifications were required to be sought which is the reason she was not passing any order on that date. The petitioner was not called upon to address on the areas where the Additional Sessions Judge required clarifications.

In the above facts and circumstances, the impugned order dated 02.05.2015 of the Additional Sessions Judge in Criminal Revision No.35/2014 is set aside. The said revision proceedings are revived on the file of the Additional Sessions Judge. The said court will re-hear the parties and pass a fresh order. Needless to add, the Additional Sessions Judge need not feel bound by the observations made in the order which has been vacated. The matter has remained pending unduly for long and, therefore it is also directed that the Criminal Revision shall be decided expeditiously preferably within three months of the date of the first appearance being hereby fixed.

The parties are directed to appear before the Additional Sessions Judge on 31.07.2018.

Copy of the order be given *dasti* under the signature of the Court Master.

R.K.GAUBA, J

JULY 13, 2018

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