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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5456/2018**

SH. NAZIR HUSSAIN

..... Petitioner

Through: Mr. Ajay Chaudhary, Mr. D.S.
Chaudhary, Mr. Parambir Singh, Mr.
Dinesh Kumar & Mr. D. Mathew,
Advs.

versus

STATE

..... Respondent

Through: Mr. K.S. Ahuja, APP for the State
with SI Neeraj Kumar, PS Special
Cell.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **19.11.2018**

The petitioner is facing trial in the case (SC 17023/2016) in the court of Special Judge Narcotic Drugs and Psychotropic Substances (NDPS) at New Delhi (presently presided over by Mr. Sudesh Kumar, II), an officer of the Delhi Higher Judicial Service, it having arisen out of the report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted on conclusion of investigation into first information report (FIR) no. 25/2016 of police station Special Cell, Lodhi Colony, New Delhi. As per the allegations in the said case, the appellant was apprehended and the recovery of contraband which is the subject matter of the prosecution case was effected at a place within the territorial jurisdiction of police station Nand Nagri that falls within North-East District of Delhi.

The petitioner had taken exception to the proceedings pending in the court of Special Judge, NDPS at New Delhi on the ground that the said court had no territorial jurisdiction, he referring to provision contained in Section 36 A of NDPS Act, 1985. His objections were repelled by the said Court by order dated 20.08.2018, challenging which he has come up before this Court by this petition under Section 482 Cr.P.C.

The matter came up before this Court on 29.10.2018, when the question of notifications conferring power on the special court under the NDPS Act and the administrative orders issued by this Court distributing judicial business amongst such courts came up for consideration. Since the counsel for petitioner submitted that he did not have access to such notifications, a report from Registrar (Gazettee) of this Court was called for.

The Registrar (Vigilance) who is also the controlling officer of the Gazette branch has submitted her report dated 03.11.2018 which is taken on record.

The learned counsel for the petitioner was permitted to go through the aforementioned report of the Registrar and for this purpose, the matter was passed over.

Having heard both sides and having gone through the record and the aforementioned report, this Court finds no substance in the objection to the jurisdiction of the Special Judge (NDPS) before whom the case against the petitioner is pending. As is clear from the report of the Registrar (Vigilance), the Lieutenant Governor of Delhi, by notification dated 15.09.2010 had conferred upon each officer of the Delhi Higher Judicial Service the powers of presiding officer of Special Court, including in terms of Section

36 (2) of NDPS Act, 1985 to be exercisable by them w.e.f. assumption of the charge of the post of presiding officer of such court in pursuance of the transfer or posting orders made by Chief Justice of this Court. As is also reported by the Registrar (Vigilance), postings/transfer orders were issued on the administrative side pursuant to directions of Hon'ble the Chief Justice on other Hon'ble Judges of this Court vide notification no.24/DHC/Gaz./VI.E.2(a)/2008 dated 22.10.2008 which was made effective from 1st November, 2008, in terms of footnote no.66 whereof the court of Special Judge (NDPS) constituted at New Delhi was also conferred with the jurisdiction to deal with the cases under NDPS Act of Special Cell of Delhi police, directions having been given to the Sessions Judge to withdraw the cases of such jurisdiction pending with other courts of Special Judges to be assigned to the said court.

The presiding officers of the court of Special Judge under NDPS Act at New Delhi, have been changed from time to time, the present incumbent having taken the said position from his predecessor in terms of the transfer/postings orders issued vide no. 05/DHC/Gaz./G-1/VI.E.2(a)/2017 dated 18.03.2017.

In the above facts and circumstances, the case investigated into by Special Cell of Delhi Police has been correctly entertained by the Special Court where it is now pending.

There is no jurisdictional error. The petition is dismissed.

R.K.GAUBA, J

NOVEMBER 19, 2018/nk

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