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

+ **CRL.L.P. 11/2018 & CRL.M.A.163/2018**

THE STATE GOVT OF NCT OF DELHI Petitioner

Through: Mr. Rahul Mehra, Standing Counsel
(Crl.) for State.
Mr. Kewal Singh Ahuja, APP for
State.

versus

ISMAIL AHMED & ANR Respondents

Through: None.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

% **19.03.2018**

1. A report has been received from the District and Sessions Judge (D&SJ), Rohini, pursuant to the order passed by this Court on 5th January, 2018. It appears that a fact finding inquiry was undertaken by Mr. Deepak Garg, learned Additional Sessions Judge (ASJ), North West (NW) District into the reasons for the delay in issuing a certified copy of the judgment dated 7th June 2016. The conclusions arrived at in the inquiry are as under:

“15. The fact that the copy of judgment was shuttling between the Presiding Officer and the Steno for corrections etc. has been almost admitted by the Presiding Officer in his reply which corroborates the stand of the Senior PA. He has frankly admitted in his reply that besides the delay on the part of the steno in typing the judgment, there was delay on his part in checking and corrections.

16. It is clear that in such circumstances, the Presiding Officer has to bear the responsibility for the delay in signing the judgment.

17. In view of above, the inordinate delay in delivering the certified copy of the judgment in question appears to be primarily on account of delay on the part of the Presiding Officer in correcting, finalising and signing the judgment.”

2. As regards the delay in uploading the judgment on website, the conclusion in para 18 is as under:

“As stated above, the Senior PA in her reply has stated that she might have uploaded the said judgment on server but she did not remember exactly as it was old matter and considerable time has passed. However, the reply of the Branch Incharge, Computer Branch, Rohini Courts Delhi makes it clear that as per record, the judgment of this case was not uploaded on the CIS software. In view of the same, it is clear that. Senior PA of the said court was responsible for not uploading the said judgment on server.”

3. As far as the learned D&SJ, Rohini is concerned, he has given suggestions for improving the system so that such delays can be avoided. He points out that Rohini Court Complex houses two Judicial Districts, i.e. NW and North Districts. He suggests that the copying agency should be bifurcated into two, Copying Agency (NW) and Copying Agency (North). He also suggests further subdividing the Copying Agency of each district into three as is being done in Tis Hazari Court Complex, viz. Copying Agency (Civil), Copying Agency (Criminal), and Copying Agency (Sessions).

4. The second suggestion concerns the non-availability of sufficient numbers of Judicial Assistants/Junior Judicial Assistants and PAs & Senior PAs. It is submitted that an adequate number of the JJAs, JA, PAs and Senior PAs should be made available.

5. The D&SJ Headquarters (HQs) is directed to forthwith to examine and implement the above suggestions. This will be done keeping in view that it is a problem common to all the District Courts and a uniform solution has to be found to this problem.

6. Nevertheless, despite the above factors, the Court is unable to appreciate how the learned trial Judge could have proceeded to pronounce the order on 7th June 2016 acquitting one of the accused and convicting the other and thereafter keep correcting the draft thereof until 30th March 2017, when the file was received in the copying branch. Whatever may be the shortage of staff, the release of the signed copy of a judgment that has been pronounced cannot be delayed for a period of over eight months. This is simply unacceptable. The Court therefore directs the placing of the previous order passed by this Court on 5th January 2018 as well as the present order along with the letter dated 9th March 2018 of the learned D&SJ, Rohini along with its annexure before the Inspecting Committee of the concerned trial Judge Mr. Vipin Kumar Rai, ASJ, Fast Track Court, NW, for the years 2016 and 2017.

7. This Court had, in its order dated 5th January 2018, issued a specific direction to the learned D&SJ that he should proceed to take “appropriate disciplinary action against such of those personnel in the said Court who may be found responsible for the dereliction of duty without further orders from this Court”. In his letter dated 9th March 2018, the learned D&SJ, Rohini states as regards the conduct of the Senior PA that the report has been forwarded to the D&SJ (HQs), Tis Hazari for appropriate action. If this is

correct, then the Court would like to know from the D&SJ (HQs) what action has been taken. This report be called for on the next date.

8. Now coming to delay on the part of the State, a report has been filed by Lovleen, Additional Secretary (L&J and LA), in which it is stated that the Standard Operating Procedure which was proposed at a meeting convened on 21st September 2017 could not be "strictly followed" since in the present case conflicting views were received from the Office of the Director of Prosecution on 21st September 2017.

9. This is not a satisfactory explanation. Even after 19th September 2017, the file was still doing the rounds till 7th November 2017. Even thereafter there was delay. The petition was filed only on 6th December 2017, a month later. The Court is, therefore, not satisfied at all with the explanation that has been offered for the delay of 184 days in filing the petition..

10. The application for condonation of delay is dismissed. Accordingly, the petition is dismissed.

11. The compliance report of the learned D&SJ (HQs) be placed before this Court within four weeks, failing which the matter be listed for directions by the Registry.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 19, 2018/sr, nd