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

+ **CRL.M.C. 4690/2015**

RAMAN KUMAR SONI

..... Petitioner

Through: Ms. Pooja Swami, proxy counsel

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Narender Mann, Spl. PP with Mr.
Manoj Pant, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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13.07.2018

Feeling aggrieved by the orders dated 19.09.2015 and 20.10.2015 passed by the Special Judge on the file of the criminal case (no.12/2008) registered on the basis of the report under Section 173 of the Code of Criminal Procedure, 1973 (Cr. PC) submitted by the respondent / Central Bureau of Investigation (CBI) on conclusion of investigation into RC No.SIB2006 E0009, the present petition has been filed invoking the inherent jurisdiction of this court under Section 482 Cr. PC. seeking the said orders to be set aside and quashed and the petitioners to be discharged / acquitted in the said case.

By the impugned order dated 19.09.2015, it was held by the Special Judge that a *prima facie* case had been made out to put the petitioner and others (one of the accused persons having by then died) on trial for offences punishable under Sections 120B read with CRL.M.C. 4690/2015

Section 217 IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 in addition to separate charges for substantive offences under Section 217 IPC and Section 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988.

A perusal of the record would indicate and there is no attempt in the petition to refute evidence to such effect, that the petitioner is co-owner (with co-accused Daman Kumar Soni) of property described as no.33, Bunglow Road, Kamla Nagar, Delhi. As per the material placed on record, the said property is built up property over a plot of land admeasuring 635 sq. yds. It appears the Municipal Authorities had noticed certain encroachment carried out by the petitioner and other co-accused, they having been found in use and possession of plot of land which had been extended upto 843.9 sq. yds. The removal action of encroachment had been directed in the wake of certain directions by this court in a writ petition (PIL) no.7767/2002 titled *Dev Dutt Vs. MCD*. The encroached part of the area statedly had been used by the petitioner and other co-owner of the property no.33, Bungalow Road to develop three shops which had been let out and the income generated thereby was accruing to him and the co-owner. Affidavits were filed by the co-accused K.P. Singh, Executive Engineer (Works) of Municipal Corporation of Delhi who was initially discharged but was later prosecuted on the basis of supplementary charge-sheet (and has since statedly died), on 12.01.2004, 31.08.2004 and 12.08.2005 informing the court falsely stating that the encroachment had been removed, this being supported

by certain photographs which are alleged to be manipulated. There is evidence gathered to show that the encroachment had not been removed and the three shops illegally constructed over the encroached area had continued to exist, the tenants inducted by the petitioner and his co-owner having continued to pay rental to them.

In the above facts and circumstances, the petition challenging the framing of charge is found to be devoid of substance and merit. The contention raised by the petitioner that even if all the above mentioned facts are assumed to be true, no charge under Section 13(1)(d) of Prevention of Corruption Act, 1988 could be made out cannot be accepted. The public servants that are involved, if the allegations of false affidavits and manipulated photographs are true, had *prima facie* abused their position apparently to secure unlawful pecuniary advantage for the petitioner, there being absolutely no public interest sub-served by such false affidavits.

For the above reasons, the petition and the application filed therewith are dismissed.

R.K.GAUBA, J

JULY 13, 2018

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