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

+ CRL.M.C. 5090/2015 and CrI.M.A.18335/2015

NAVAL KISHORE AGGARWAL & ORS. Petitioners

Through: Mr. Rahul Gupta, Advocate with
Mr. Shakhar Gupta, Adv. &
Mohd. Talah, Advocate

versus

STATE Respondent

Through: Mr. Ashish Dutta, APP for the State
with SI Mukesh Kumar, EOW
R2 in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **16.08.2018**

This petition was filed in December, 2015 taking exception to the order dated 22.04.2015 of the court of Metropolitan Magistrate whereby upon consideration of report filed under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.), submitted upon conclusion of the investigation into first information report (FIR) No.13/2008 of Police Station Economic Offence Wing (EOW), cognizance was taken for offences punishable under Sections 420/409/467/468/471/477A and 120-B of the Indian Penal Code, 1860 (IPC) the Metropolitan Magistrate also recording that there are sufficient ground to proceed and, consequently, issuing process, *inter alia*, against the petitioners herein.

During the course of hearing, it was brought out that the report under Section 173 Cr.P.C. (charge sheet) was submitted on 12.08.2014, the
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question of charge having not even being considered till date, for no plausible reasons.

In the given facts and circumstance, it is desirable that when the case has reached at such stage as above before the competent criminal court, the contentions urged here are placed or considered before the said court, inasmuch as the said court is also equally competent, rather more appropriate one given the stage of the process, to consider such contentions as also have a bearing on the questions as to whether a case is made out against the petitioners, meriting them to be put on trial on specific charges, or conversely, as to whether they are entitled to be discharged thereby bringing an end the proceedings against them.

For the above reasons, the contentions raised in the petition at hand seeking quashing of the process are reserved to be agitated before the Metropolitan Magistrate at the stage of consideration of charge. In the event of adverse order being passed, the petitioners will have the right to pursue the remedy available under law.

With these observations, the petition is disposed of.

This disposes of pending application as well.

R.K.GAUBA, J.

AUGUST 16, 2018
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