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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 596/2019 & CrI.M.A. 2484/2019**

venu madhav Petitioner
Through: Mr. Bipin Kalappa, Adv.

versus

FOOD INSPECTOR Respondent
Through: Mr. Sanjeev Sabharwal, APP for the
State.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **04.02.2019**

On the criminal complaint (CC no. 43452/2016) instituted by the respondent alleging offence punishable under Prevention of Food Adulteration Act, 1954, a number of persons were summoned as accused they including the petitioner herein shown in the array as eighth accused (A-8). The Metropolitan Magistrate, by his order dated 14.12.2017, however, found no grounds to proceed against some of the accused persons including the petitioner and, thus, directed, they including the petitioner being discharged. The said order dated 04.12.2017 is stated to be under challenge in the court of Sessions by CrI. Rev.No. 39/2018 preferred by the respondent.

It appears from the documents on record, as indeed the submissions of the counsel for the petitioner that notice of the above said petition was duly served on the latter (the petitioner) and he along with certain others had appeared before the revisional court through counsel. The presence of the

petitioner is indicated in the proceedings recorded by the revisional court on 12.12.2018. There is some inherent contradiction in the said order-sheet in that while presence of the petitioner through a proxy counsel is recorded upfront, in the penultimate paragraph, the revisional court proceeded to issue bailable warrant against some of the respondents in revision they including the petitioner, on account of the fact they were absent and no exemption had been sought.

It is the above order which is challenged by the petition at hand under Section 482 Cr.P.C. The counsel for the petitioner submits that he had been engaged and duly instructed by the petitioner to appear before the revisional court, he having already filed his reply to the revision petition. This Court agrees with the argument that duress process could not have been issued in the revisional proceedings to compel appearance of the petitioner unless there was a specific need felt by the said court to require the presence of the respondent for purposes of examining the issues which are raised. The counsel for the petitioner submits no such specific order requiring personal appearance of the petitioner has been passed by the revisional court. At the same time, it must be observed that from the manner in which the petitioner seems to be conducting himself there seems to be some design on his part to stall the consideration of the revision petition which he cannot be allowed to do. There is no explanation why the counsel for the petitioner himself was not present before the revisional court on 12.12.2018.

In above facts and circumstances, while the directions of the revisional court in order dated 12.12.2018 issuing bailable warrants to compel the appearance of the petitioner are hereby set aside, it is directed

that the revisional court will proceed to adjudicate upon the revision petition expeditiously, it having already called upon the petitioner to assist by responding to the revision petition and thereby having complied with the requirements of law. Since the petitioner has due notice of the revision petition, it is his obligation to assist. Unless the revisional court has some specific reason to so insist to compel his appearance, his absence from further proceedings should not come in the way of consideration of the revision petition.

The petition and the application filed therewith are disposed of with above observations and in above terms.

Dasti.

R.K.GAUBA, J

FEBRUARY 04, 2019
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