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

Date of decision: 03.09.2019

+ CRL.REV.P. 928/2019

STATE (GNCT OF DELHI)

..... Petitioner

Through: Mr. Panna Lal Sharma, APP for State

versus

AMIT KUMAR

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

CRL. M.A. 34976/2019

Allowed, subject to all just exceptions.

Application is disposed of.

CRL.REV.P. 928/2019

Vide the present petition, the petitioner State seeks direction thereby setting aside the Impugned Order dated 29.05.2019 passed by Sh. Jitendra Kumar Mishra, learned ASJ, North, Rohini Courts, Delhi whereby the said Judge is of the view that the investigation should have been conducted either by Joint CP or by Addl. Commissioner of Police in FIR No. 173/2018

registered at Police Station Model Town for offences punishable under sections 325/341/308 IPC.

Learned Trial Judge has observed that information regarding incident received at the concerned Police Station at 04:02 p.m., therefore, may be at least by 04:30 p.m. medical examination should have been conducted immediately of the complainant who is working as ASI in the office of DCP in North West District. Accordingly, he recorded in its order that the complainant is ASI and IO of the case is also ASI of crime branch i.e. of the same rank. The complainant is working in DCP office in a same city i.e. a DCP in North West District, then certainly he is having a position of influence.

He further recorded that though no evidence brought till now that he was threatened by the complainant that he would implicate the accused in a false case as he is in DCP office. Accordingly, he observed that the investigation should have been conducted either by the Joint Commissioner of Police or by Additional Commissioner, so that there should be fair investigation as justice should not only be done but also seen to be done.

Accordingly, undisputed facts are that the complainant is working in the office of DCP North West as ASI and IO of the case is also ASI, however, working under DCP North-West of crime branch, though IO and

complainant are of the same rank, the present case has already been registered for the offences punishable under sections 325/341/308 of the IPC.

If the opinion of the learned ASJ is considered to be true that if any complainant is working in the office of DCP, he is having a position of influence and, therefore, he can implicate any innocent person. It is only a presumption, however, without commenting much on the issue raised in the present petition, I hereby modify the order dated 29.05.2019 and direct that investigation in the present matter be done by the officer not below the rank of Inspector.

Learned APP for the State has agreed to this preposition.

Accordingly, the petition is allowed and disposed of.

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 03, 2019

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