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

+ **W.P.(CRL) 3265/2018**

GULSHAN KUMAR ARORA

..... Petitioner

Through: Mr Ravindra Narayan and Mr Raghav
Narayan, Advocates along with
petitioner in person.

versus

STATE & ANR.

..... Respondents

Through: Mr Ranbir Singh Kundu, ASC for
State with Mr Shivom Saharan and
Mr Hitesh Vali, Advocates.
SI Sunil Kumar, PS Tilak Marg.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **31.10.2019**

1. The petitioner has filed the present petition, *inter alia*, praying that that FIR bearing no. 297/2007 under Sections 467/468/471 of the IPC registered with PS Tilak Marg be quashed and directions be issued to police officials of PS Tilak Marg to stop the investigations in regard to the said FIR.
2. In addition to the aforesaid FIR, another FIR bearing no. 93/2008 was also registered with Police Station Tilak Marg.
3. It is apparent from the record that there has been an inexcusable inordinate delay on part of the investigating agency in completing the investigation. The present petition was listed on 25.10.2018 and on that date,

the learned APP had, on instructions, made a statement that the investigation would be completed after the FSL report was received. The impression given to this Court was that the investigations have been held up solely on account of non-receipt of FSL reports regarding certain documents. In view of the same, hearing of this petition was adjourned. It was, thereafter, reported that the FSL report had not been received. In this background, this Court had, on 25.04.2019, directed Director, FSL to send a report to this Court to explain the reasons as to why the FSL report had not been furnished in this case. Despite the aforesaid directions, no response was received from the Director, FSL.

4. In view of the above, on 20.05.2019, this Court directed that Director, FSL be personally present on the next date of hearing, that is, on 29.05.2009. Despite the said orders, the Director, FSL was not present and on 29.05.2019, bailable warrants were issued against the Director, FSL to ensure her appearance on 30.05.2019.

5. On 30.05.2019, Director, FSL was present and she informed this Court that documents had been received in the FSL on 30.04.2009 and a report was prepared on 11.05.2009 stating that the material provided was insufficient to form an opinion. Subsequently, the documents were again received on 31.01.2019 and report had been prepared on 29.05.2019. It is seen that documents in relation to this FIR had been sent on two occasions almost one decade apart. Clearly, the FSL cannot be held responsible for any delay and the responsibility for the inordinate delay in this case rests with the concerned police officials of Police Station Tilak Marg.

6. However, this Court was also informed by the Director, FSL that certain documents had been sent to FSL on 09.03.2010 in connection with FIR bearing no. 93/2008 and on which the opinion was rendered on 20.08.2010. In view of the confusion as to whether documents were sent in connection with FIR 93/2008 or FIR 297/2007, the Coordinate Bench of this Court had directed the concerned Director, FSL to file an affidavit in this regard.

7. In compliance with the aforesaid order dated 30.05.2019, the Director, FSL has filed an affidavit, which indicates that documents had been sent to FSL in connection with FIR No. 93/2008 on two occasions – on 09.03.2010 and 02.11.2012. Reports pertaining to the said documents had been collected on 23.08.2010 and 29.03.2017 respectively. These reports are not immediately relevant as this Court had informed that cancellation report was filed by the Investigating Officer in connection with FIR No. 93/2008 and the same is pending consideration before the Trial Court.

8. Insofar as the FIR No. 297/2007 is concerned, the documents had been sent to FSL on 30.04.2009 and on 31.01.2019. Reports in respect of these documents were collected on 19.05.2009 and 29.05.2019 respectively.

9. It is stated that, thereafter, a charge sheet was filed. Initially, the charge sheet was filed without enclosing the FSL report. In view of the above, the Trial Court had issued directions to the Investigating Officer to file the complete documents along with the charge sheet. Apparently, this was not done. Consequently, the Court issued notice to the Investigating Officer to be present along with all documents. Despite the same, the

Investigating Officer was not present before the Court on 15.10.2019. On that date, the learned MM in Criminal Case No. 43434/2016 (in connection with FIR No. 297/2007) was constrained to issue bailable warrants against the Investigating Officer. It was specifically directed that the Investigating Officer would appear along with the FSL report and the documents sent for examination. The matter has now been re-notified on 04.12.2019.

10. Mr Kundu, learned ASC appearing for the State states that subsequent to the said order, the charge sheet along with all relevant documents has been filed.

11. Given that there is no plausible explanation for the delay in completing the investigation, this Court is inclined to accept the petitioner's plea and quash the FIR in question. However, since it is stated that a charge sheet along with documents has already been filed, this Court considers it apposite that the learned Court considers the same and take an appropriate decision in this regard after considering the charge sheet. The learned MM is requested to fix a hearing for arguments on framing of charge as expeditiously as possible and preferably within a period of two weeks from the next date of hearing, that is, 04.12.2019. The learned MM shall give concerned parties an opportunity to be heard and taken an informed decision as to whether any charges are required to be framed.

12. The Investigation Officer shall ensure that he is present before the learned MM with all documents and case diaries and ensure that he renders full assistance to the learned APP as well as the concerned Court.

13. The petition is disposed of with the aforesaid directions.
14. Order *dasti* under signatures of the Court Master.

OCTOBER 31, 2019
RK

VIBHU BAKHRU, J