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

+ W.P.(C) 14048/2018

HARINATH RAM

..... Petitioner

Through: Mr. Shashak Deo Sudhi, Adv.

versus

NCT OF DELHI AND ORS.

..... Respondents

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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08.01.2019

CM No. 54835/2018 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 14048/2018

Petitioner has filed this public interest litigation and the prayer made in the writ petition is to issue a writ of Quo Warranto directing respondent No.2 – The Lt. Governor of NCT of Delhi to remove respondent No.3 from his elected office on the ground that he has breached the oath of office and the constitutional trust under Article 164 (3) of the Constitution, therefore is not entitled to continue as a Chief Minister, as is alleged to have been involved in committing acts of violence and is said to have assaulted senior Government officials like Chief Secretary. *Inter alia* contending that in view of the aforesaid incident respondent No.3 cannot hold the office, the

relief is sought for. However, the fact remains that for the so called alleged act, respondent No.3 is already facing prosecution and the matter is pending before a court of competent jurisdiction namely the learned Additional Chief Metropolitan Magistrate, Patiala House Courts, New Delhi in Crl. Case No.15664/2018 (FIR No.54/2018).

Once the matter is sub judiced before the Criminal Court and the allegations made against the respondent No.3 is subject of inquiry and investigation in the FIR and the criminal case, at this stage a democratically elected authority cannot be removed by a writ of Quo Warranto when the allegations levelled which forms the basis for his removal are already sub-judiced in the criminal case and are yet to be established. Accordingly, finding no ground to interfere with the matter in a public interest litigation, we dismiss the writ petition.

CHIEF JUSTICE

V. KAMESWAR RAO, J

JANUARY 08, 2019/*ns*