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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 5080/2019, CRL.M.A. 37606/2019, CRL.M.A. 11127/2020,
CRL.M.A. 11128/2020, CRL.M.A. 11129/2020 & CRL.M.A.
11132/2020

FRANCIS THOMAS

..... Petitioner

Through: Mr.Ajay Burman, Sr. Advocate with
Ms.Sadhvi Gaur & Ms.Tanya Harnal,
Advocates.

Versus

STATE

.....Respondent

Through: Mr. Kamal Kumar Ghei, APP for State.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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18.08.2020

(hearing through Video Conferencing)

CRL.M.A. 11129/2020 & CRL.M.A. 11132/2020 (Ex.)

Exemptions allowed subject to all just exceptions.

The applications stand disposed of.

CRL.M.A. 11127-28/2020 IN CRL.M.C. 5080/2019

The matter is to be taken up on 16.09.2020 in view of the order dated 19.02.2020 re-notifying the matter for the date 27.05.2020, on which date the matter could not be taken up in view of the present pandemic and the matter is now taken up on CRL.M.A. 11127/2020 filed on behalf of the petitioner seeking an urgent hearing in the matter and seeking the disposal of CRL.M.C.5080/2019. Along with the said application is CRL.M.A. 11128/2020 vide which the prayer is to the

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effect seeking a stay of the proceedings before the learned Trial Court in relation to SC No.283/2018 till disposal of the present petition.

In as much as, it has been submitted on behalf of the petitioner that vide order dated 15.07.2019 in relation to FIR No.79/2016, PS Vasant Kunj North in case no.283/2016, it had been directed by the Trial Court of the learned ASJ-02, FTC that the matter was re-notified for 31.07.2019 with submissions having been made on behalf of the petitioner that the present petition preferred by the respondent no.1 arrayed as the petitioner herein assailing the order dated 21.07.2018, may be decided first vide which order, the learned MM-02, PHC, New Delhi had committed the proceedings in relation to FIR No.79/2016, PS Vasant Kunj North which had been registered initially under Section 304A of the Indian Penal Code, 1860 with the learned MM-02, PHC, New Delhi vide order dated 21.07.2018 which was assailed in the Revision Petition before the learned ASJ-02, FTC had committed observing to the effect that an offence punishable under Section 304 Part II of the Indian Penal Code, 1860 was made out and thus, committed the matter with proceedings dated 11.07.2019 i.e. prior to the date 15.07.2019 before the learned ASJ-02, FTC, it had been observed to the effect that the matter was otherwise at the stage of order on charge and that a submission had been made during the course of the arguments on behalf of the accused no.2 that there was a Revision Petition preferred by the accused no.1 against the order of the Magistrate and that the Court would pass the orders on the revision before hearing the accused persons on the point of charge.

To similar effect was thus the submission made on behalf of the State on 15.07.2019 before the learned ASJ-02, FTC as observed vide the order dated 15.07.2019, which reads to the effect:-

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“Ld. Addl. PP has submitted that the revision petition preferred by the respondent no.1 impugning the order dated 21.07.2018 may be decided first.

Arguments on the revision petition have been separately advanced.

Matter to come up for further proceedings for 31.07.2019 at 2:00 pm.”,

observing to the effect that the State submitted that the revision petition preferred by the respondent no.1 impugning the order dated 21.07.2018 may be decided first.

Vide the present petition, the prayers made in the petition were to the effect:-

“A. Pass appropriate directions to the Revisional Court to dispose of the Criminal Revision bearing No. 80/2018 in Case No. 325/2018 titled as ""Francis Thomas Vs. State (NCT of Delhi) preferred by the Petitioner challenging the Committal Order passed by the Learned MM, before hearing the Arguments on the point of Charge by the Learned Sessions Judge.

B. Pass such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

It is now submitted by the learned senior counsel for the petitioner that the matter is now fixed for the date 20.08.2020 before the learned Trial Court and that in as much as vide order dated 09.10.2019 as extended vide order dated 19.02.2020, the proceedings of the learned Trial Court have been stayed and all that is now sought is the vacation of the said stay of the proceedings before the learned Trial Court, so that the matter can be heard both in relation to the Revision Petition as well as in relation to the order on charge.

On behalf of the State, it is submitted that the arguments be allowed to be addressed both qua the Revision Petition and qua the aspect of the framing of charge on the same date qua which there is no opposition on behalf of the petitioner, though, it is sought by the learned

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senior counsel that Crl Rev. Petition no.80/18 in the case be first disposed of before the orders on charge are passed which submission is apparently correct for a fair hearing and fair adjudication of the proceedings in relation to the FIR No.79/2016, PS Vasant Kunj North.

In the circumstances, the orders dated 09.10.2019 and 19.02.2020 to the extent that the proceedings before the learned Trial Court were stayed, as extended vide order dated 19.02.2020 are set aside with the present petition being disposed of with directions to the learned ASJ concerned seized of Crl Rev. Petition no.80/18 assailing the order dated 21.07.2018 of the learned MM-02, PHC, New Delhi in CC No.2223/2017 and the orders on the aspect of charge in relation to the said FIR are both considered on the same date with further directions to the effect that the said Revision Petition aforementioned shall be first disposed of before the adjudication on the point of charge.

Copy of this order be sent to the learned Sessions Court seized of the Crl Rev. Petition no.80/18 as well as seized of the committed proceedings.

The Registry shall ensure that the copy of this order will reach to the Sessions Court concerned before the date fixed in the matter.

The petition is disposed of.

ANU MALHOTRA, J

AUGUST 18, 2020

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