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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 110/2020 & CRL.M.A.737/2020

MUKESH KUMAR

..... Petitioner

Through

Ms.Rebecca John, Sr.Advocate with
Ms.Vrinda Grover, Mr.Siddhartha
Sharma, Mr.Harsh Bora,
Ms.Maulshree Pathak, Ms.Praavita
Kashyap, Ms.Joshika Saraf and
Ms.Megha Bahl, Advocates.

versus

UOI & ORS.

..... Respondents

Through

Ms.ManinderAcharya, ASG with
Mr.Kirtiman Singh, CGSC, Ms.Waize
Ali Noor, Mr.Viplav Acharya,
Mr.Rohan Anand, Ms.Shefali Jaiswal,
Mr.Krishnesh Bopat and Mr.Shihhan
Kishore, Advocates for UOI.
Mr.Rahul Mehra, standing counsel for
State with Mr.Chaitanya Gosain,
Mr.Amanpreet Singh and Mr.Divyank
Tyagi, Advocates with Inspector Ravi
Shanker, SI Amit Kumar, SHO
Vasant Vihar.
Mr.Raj Kumar, AIG, Mr.Jorawar
Singh, OIC and Mr.Parshant Varma,
Legal Cell.
Mr.M.N.Khan, Dy.Secretary, Judicial
Division, MHA/UOI.
Mr.Jitendra Kumar Jha and
Ms.Seema Kushwaha, Advocates for
Nirbhaya's parents.

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Date of Decision: 15th January, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J (Oral):-

1. Present writ petition has been filed under Articles 226 and 227 of the Constitution of India read with Section 482 Cr.P.C. challenging the order dated 07th January, 2020 passed by the learned Additional Sessions Judge, Patiala House Courts, New Delhi, whereby 22nd January, 2020 has been fixed as the date for execution of the petitioner.
2. While learned senior counsel for the petitioner states that the order dated 07th January, 2020 has not been impugned, only the date of execution i.e. 22nd January, 2020 has been sought to be set aside, learned counsel for the respondents state that the present writ petition is premature.
3. Having heard learned counsel for the parties, this Court is of the view that there is no error in the order dated 07th January, 2020 as till the date the impugned order was passed, the petitioner had neither filed a curative nor a mercy petition. If the petitioner is of the opinion that the date of execution mentioned in the impugned order needs to be set aside in view of any subsequent event, then he must approach the court that passed the impugned order.
4. This Court is further of the opinion that once the Supreme Court has dismissed the petitioner's criminal appeal confirming the death sentence as well as the review and curative petitions, the petitioner cannot challenge the Additional Sessions Judge's order dated 07th January, 2020 fixing a date of

hanging before the High Court as the said order is nothing but carrying the orders passed by Apex Court to its logical conclusion. In the event, the petitioner is aggrieved by any such order, he shall have to approach the Apex Court.

5. At this stage, learned senior counsel for the petitioner states that the petitioner would file an appropriate application before the Trial Court bringing the subsequent events to its attention.

6. With the aforesaid liberty and observations, the present criminal writ petition along with the pending application stand disposed of.

7. Order *dasti* under the signature of the Court Master.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

**JANUARY 15, 2020
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