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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 02 September, 2022

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CRL.M.C. 4289/2022 & CRL.M.A. 17553/2022

CNA EXPORTS PVT. LTD.

..... Petitioner

Through: Mr. Sanjay Rathi, Mr. Deepak
Khatri and Mr. Nikhil Kumar
Singh, Advocates.

versus

THE STATE & ANR.

..... Respondents

Through: Mr. Raghuvinder Varma, APP
for State with Insp. Snajay
Kumar, P.S. EOW.
Mr. Siddharth Agarwal, Sr.
Advocate with Ms. Mansi
Sharma and Ms. Astha
Baderiya and Mr. Abhinav,
Advocates for Respondent
no. 2.

CORAM:**HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN****JUDGMENT (oral)**

1. The present petition is filed under section 482 Cr.P.C for setting aside the orders dated 02.06.2022 and 25.07.2022 passed in complaint case no. 10733/2021 titled as **State V Janak Datwani** passed by the Court of Ms. Snigdha Sarvaria, CMM, Patiala House Courts, New Delhi arising out of FIR bearing no. 77/2019 registered under sections 420/468/471 IPC at P.S. EOW, Mandir Marg.
2. Issue notice.
3. Mr. Raghuvinder Varma, Additional Public Prosecutor, appearing on behalf of the respondent no. 1 accepts notice. Ms. Mansi Sharma, appearing on behalf of respondent no. 2 accepts notice.

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4. The perusal of the FIR bearing no. 0077/2019 dated 09.05.2019 reflects that it was got registered under sections 420/467/468/471/120B IPC at P.S. EOW, Mandir Marg on the complaint made by Jamna Datwani, Managing Director of the complainant. The charge sheet was filed in the Court of Ms. Snigdha Sarvaria, CMM, Patiala House Courts, New Delhi on 03.12.2021 and on that day cognizance was taken for the offences punishable under sections 420/468/471 of the Indian Penal Code, 1860.

5. The summons were ordered to be issued against the respondent no. 2 by the court of Ms. Snigdha Sarvaria, CMM, New Delhi, Patiala House Courts, New Delhi for 23.04.2022. On 23.04.2022 the summons were received back un-served and fresh summons were ordered to be issued against the respondent no. 2 for 28.05.2022. The perusal of order sheet dated 28.05.2022 reflects that on that day Suraj clerk of counsel of Ms. Mansi Sharma was present for the accused i.e. the respondent no. 2, but the respondent no. 2 did not appear before the court. Accordingly, the Court of Ms. Snigdha Sarvaria, CMM, Patiala House Courts, New Delhi ordered for issuance of NBW against the respondent no. 2 for 27.10.2022.

6. An application for cancellation of NBW was filed on behalf of the respondent and vide order dated 22.06.2022 after considering the submission made by the counsel for the applicant namely Alok Saxena that the respondent no. 2 shall be appearing before this court as he has been travelling abroad. The operation of NBW against the respondent no. 2 was ordered to be stayed.

7. The perusal of order dated 15.07.2022 reflects that objection on cancellation of NBW was filed on behalf of the complainant and notice of the said application/objection was ordered to be issued to the respondent no.



2 for 25.07.2022.

8. The perusal of the order dated 25.07.2022 reflects that notice issued to the respondent no. 2 received back with the report that the respondent no. 2 is abroad and thereafter, the court notice was ordered to be issued to the respondent no. 2 through counsel and the case was adjourned for 27.10.2022.

9. The counsel for the petitioner argued that the application for cancellation of NBW was not filed in proper form as it was not by the accused but signed by the counsel whose Vakalatnama /Power of Attorney was not on record. The learned Senior Counsel for the respondent no. 2 argued and stated to the contrary and stated that along with application for cancellation of NBW the memorandum of appearance was filed on behalf of the counsel for the respondent no. 2.

10. The application for cancellation of NBW is still pending before the concerned trial court and the trial court has already stayed the operation of NBW. The trial court is accordingly, directed to decide the application for cancellation of NBW stated to be filed on behalf of respondent no. 2 preferably within two weeks from the date of receipt of this order or on date so fixed by the Trial Court by considering contentions as made in the petition and submissions to be made on behalf of the respondent no. 2.

11. The present petition along with pending applications if any, stands disposed of.

(SUDHIR KUMAR JAIN)
JUDGE

SEPTEMBER 2, 2022/sk/kg

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