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

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Date of decision: 01st August, 2023+ **CRL.L.P. 292/2023**STATE OF NCT OF DELHI THROUGH DEPUTY
COMMISSIONER OF POLICE PetitionerThrough: Mr. Tarang Srivastava, APP for
State with Insp. Suresh
Choudhary, PS Sangam Vihar.

versus

VIPIN @ VICKY

..... Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CRL.M.A. 15081/2023 (Condonation of delay)**

1. *Vide* the present application, the applicant/petitioner seeks condonation of 4998 days' delay in filing the present Criminal Leave Petition against the impugned Judgment dated 18.09.2019 passed by Dr. Neera Bharihoke, learned Additional Sessions Judge-06, South-East Saket Courts, Delhi in FIR No. 217/2008 registered under Sections 302 and 34 of the Indian Penal Code, 1860 at Police Station Sangam Vihar, New Delhi, wherein the learned Trial Court dismissed the case of the prosecution by holding that the appellant/prosecution has not been able to prove its case against the respondent/accused person beyond reasonable doubt.

2. Pertinently, the appeal against the impugned Judgment dated 18.09.2019 was to be filed within the statutory period of 90 days.

3. Upon hearing learned Additional Public Prosecutor for the appellant/State and on perusal of the present application, this Court finds that the file of the present case was marked on 26.11.2019 to the then



learned Public Prosecutor who in consultation with the Additional Public Prosecutor gave his opinion that it was not a fit case for appeal, thereafter, the file was marked to learned CP on 30.11.2019. On 03.12.2019, learned CP did not agree with the report of learned Public Prosecutor and held it to be a fit case for appeal. The matter was discussed by learned CP, DoP with learned Additional Public Prosecutor and learned CP opined that it was a fit case for appeal.

4. On 13.12.2019, the file was sent to the Office of Additional Secretary, Law & Justice with an opinion that the case is fit for appeal, and on the same day, it was forwarded to the Office of Principal Secretary, Law & Justice and subsequently, the Principal Secretary, Law & Justice forwarded the file to ALA on 18.12.2019. After due formalities, DoP sent the file to the Standing Counsel (Criminal) on 25.02.2020. The draft petition was prepared by learned Additional Public Prosecutor in 2022 who left the Panel before filing. The file was then marked to Mr. Prithu Garg, learned Additional Public Prosecutor who further drafted and filed the present petition on 26.05.2023 with a delay of 4998 days.

5. Relevantly, this Court is conscious that due to extraordinary times on account of COVID-19 Pandemic, the Hon'ble Supreme Court in *suo moto* Writ Petition (Civil) No. 3/2020 directed that the period from 15.03.2020 till 14.03.2021 is to be considered out of limitation. However, the present Criminal Leave Petition has been filed only in May, 2023 and no plausible explanation has been put forward by the appellant/State for delay caused between September, 2019 till February, 2020. In the considered opinion of this Court, the appeal sought to be preferred is hit by huge delay and laches.

6. Accordingly, we find no merit in the present application and the same



is hereby dismissed.

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7. In view of the order passed in CRL.M.A. 15081/2023, the present petition along with pending application, if any, is dismissed.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 01, 2023
S.Sharma