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

% Judgment delivered on: 06.07.2023

+ **CRL.M.C. 4503/2023**

BINDU SHARMA

..... Petitioner

versus

STATE OF NCT OF DELHI & ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. R.K. Tarun, Advocate

For the Respondent : Mr. Satinder Singh Bawa, APP for State

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CRL.M.A. 17253/2023

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 4503/2023 & CRL.M.A. 17254/2023 (Stay)

3. This is a petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") assailing the impugned judgment dated 27.05.2023 passed by the learned ASJ, Tis Hazari Courts



affirming the order dated 09.05.2023 passed by learned ACMM in Criminal Case No. 298537/2017 titled as ***State vs. Sudhir Sharma and Ors*** whereby the learned ACMM dismissed the application under Section 311 of Cr.P.C. preferred by the present petitioner, which was placed by the prosecution.

4. This Court has heard learned counsel for the petitioner as well as learned APP.

5. It is observed that though the Revisional Court had passed an order in detail, however it appears that it failed to consider the fact that the learned Trial Court/ACMM had passed an order bereft of any reasons as to on what grounds the said application under Section 311 Cr.P.C. was being dismissed. The only reasoning/explanation rendered by the learned ACMM is as under:-

“Charge in the instant case were already been framed in the year 2017 and the complainant has already been examined. In these circumstances, there seems no plausible explanation for moving the present application u/s 311 Cr. PC, same stands dismissed accordingly.”

From the above it is clear that merely because the charges were framed in 2017 and the complainant/petitioner was already examined, the application was dismissed.

6. This Court is of the considered opinion that there is, apparently, no application of mind by the learned Trial Court, which ought to have been considered by the Revisional Court. As such, the impugned order dated 27.05.2023 of the learned ASJ as also the order dated 09.05.2023 passed by the learned ACMM are set aside.

7. Consequently, learned ACMM is directed to rehear and



reconsider the application under Section 311 Cr.P.C. and pass appropriate orders giving reasons therefor.

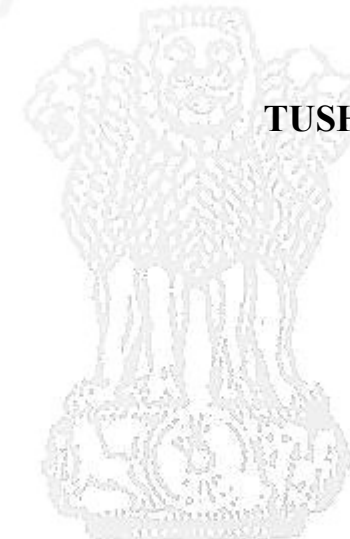
8. In the view of the above, the petition alongwith pending application is disposed of.

9. The parties shall appear before the learned Trial Court on the date already fixed, on which date the learned Trial Court is directed to either dispose of the application under Section 311 Cr.P.C. or fix any convenient date for the said purpose.

TUSHAR RAO GEDELA, J.

JULY 06, 2023

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