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

+ **W.P.(CRL) 2150/2023**

SUSHANTA KUMAR MANDAL Petitioner

Through: Mr. Narender Singh, Adv.

versus

STATE THROUGH SHO PS VASANT KUNJ NORTH

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC with Mr. Kunal Mittal and Mr. Saurabh Tanwar, Advs. and Insp. Surender Singh, PS R.K. Puram.

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Date of Decision: 01.08.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 20068/2023

Exemption allowed subject to just exceptions.

Application stands disposed of.

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1. The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. with the following prayer:

“1. Allow the present Writ Petition (Criminal) (Mandamus) Under Article 226 of the constitution of India read with section 482 of CRPC for expedite the trial and direct the Ld.

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ASJ-05, Patiala House Court, District-New Delhi to conclude the trial as soon as possible within one year in Case No. SC 213 of 2022, Titled as "State versus Somkanya Chandreyee Dass". In FIR No. 0142 of 2022, dated 17.03.2022 at PS Vasant Kunj North.

2. Allow the present Writ Petition (Criminal) (Mandamus) Under Article 226 of the constitution of India read with section 482 of CRPC and direct the Ld. ASJ-05, Patiala House Court, District-New Delhi not to grant any further adjournment in Case No. SC 213 of 2022, Titled as "State versus Somkanya Chandreyee Dass". In FIR No. 0142 of 2022, dated 17.03.2022 at PS Vasant Kunj North."

2. Learned counsel for the petitioner submits that the learned Trial Court has granted 7 adjournments despite being opposed by the complainant. It has been submitted that the accused person was given 5 adjournments on the medical grounds.
3. Mr. Sanjeev Bhandari, learned ASC for the State, has opposed the petition and submitted that the relief asked for cannot be granted by this court exercising writ jurisdiction.
4. Hon'ble Supreme Court in a catena of judgments have repeatedly stated that the scope of Article 226 is limited to the inadequacy in decision making process and unrelated to the final outcome/judgment. In *Jasbir Singh v. State of Punjab* (2006) 8 SCC 294, the Hon'ble Supreme Court held that, "Except giving general directions regarding any matter concerning administration of justice, any interference in the judicial functions of the Presiding Officer would amount to interference with



the independence of the subordinate judiciary.”

5. Moreover, the apex court in **Sarvepalli Ramaiah (D) Thr. Lrs. &**

Ors. V/s District Chittoor Dist. & Ors. (2009) 4 SCC 500 inter-alia held that:

“40. Administrative decisions are subject to judicial review under Article 226 of the Constitution, only on grounds of perversity, patent illegality, irrationality, want of power to take the decision and procedural irregularity. Except on these grounds administrative decisions are not interfered with, in exercise of the extraordinary power of judicial review.

41. In this case, the impugned decision, taken pursuant to orders of Court, was based on some materials. It cannot be said to be perverse, to warrant interference in exercise of the High Court's extraordinary power of judicial review. A decision is vitiated by irrationality if the decision is so outrageous, that it is in defiance of all logic; when no person acting reasonably could possibly have taken the decision, having regard to the materials on record. The decision in this case is not irrational.

42. A decision may sometimes be set aside and quashed under Article 226 on the ground of illegality. This is when there is an apparent error of law on the face of the decision, which goes to the root of the decision and/or in other words an apparent error, but for which the decision would have been otherwise.

43. Judicial review under Article 226 is directed, not against the decision, but the decision-making process. Of course, a patent illegality and/or error apparent on the face of the decision, which goes to the root of the decision, may vitiate the decision-making



process. In this case there is no such patent illegality or apparent error. In exercise of power under Article 226, the Court does not sit in appeal over the decision impugned, nor does it adjudicate hotly disputed questions of fact.”

6. In light of the judgments of the Hon’ble Supreme Court, there must be either perversity, patent illegality, irrationality or procedural irregularity, in order for this court to interfere in the working of a subordinate judiciary. However, none of these conditions exist in the present case. Therefore, I consider that this court in the writ jurisdiction cannot issue directions as prayed for by the petitioner.
7. The High Court cannot and should not be controlling the diary of the learned Trial Court. Learned Trial Court has to be given freedom to post the matters in accordance with the pendency of the case. It goes without saying that every court is to conduct the trial expeditiously as possible. However, relief prayed for cannot be granted.
8. Hence, the present petition is dismissed.

DINESH KUMAR SHARMA, J

AUGUST 1, 2023/AR