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

+ CRL.M.C. 4516/2022

RAJESH KUMAR

..... Petitioner

Through: Mr. Murari Kumar with Mr. Rahul
Ranjan, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for the State
with SI Naresh Kumar, PS Anti
Corruption Branch.

+ CRL.M.C. 4732/2022

MANU RANA

..... Petitioner

Through: Mr. Murari Kumar with Mr. Rahul
Ranjan, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for the State
with SI Naresh Kumar, PS Anti
Corruption Branch.

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Date of Decision: 18th January, 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.1327/2023 (for early hearing) in CRL.M.C.-4516/2022

Crl.M.A.1325/2023 (for early hearing) in CRL.M.C.-4732/2022

For the reasons stated in the applications, the applications are allowed. The petitions are taken up today itself.

CRL.M.C. 4516/2022 & CRL.M.C. 4732/2022

1. Present petitions have been filed challenging the order dated 08.03.2022 in CC No.26/2021 arising out of FIR No.50/2007 lodged under Section 7/13 POC Act read with Section 120B IPC, PS Anti Corruption Branch, GNCTD, Delhi.
2. Learned counsel for the petitioner submits that vide the impugned order dated 08.03.2022, learned Special Judge declined to take on record the record of the Departmental Inquiry dated 27.01.2022. Against this order, all the three accused person namely Sunil Kumar, Rajesh Kumar and Manu Rana invoked the jurisdiction of this Court. The petition of Sunil Kumar bearing Crl.M.C. 1346/2022 was taken up by the coordinate Bench of this Court on 14.12.2022 and following order has been passed:-

“1. This petition has been field for setting aside the order dated 8th March, 2022 passed by Special Judge, PC Act, Rouse Avenue District Court in the matter titled State v. Raj Kumar in CC No. 26/2021. As per the impugned order the learned Special Court was dismissed an application under Section 91 Cr.P.C. rlw Section 165 of Indian Evidence Act had moved on behalf of the accused persons to place their report of exoneration of department inquiry dated 21st February, 2009 before the Court in order to aid their arguments objecting to the framing of charges.

2. Learned counsel for the petitioner has drawn this Court attention to the decisions of the Hon'ble Supreme Court in State of NeT of Delhi vs Ajay Kumar Tyagi in Crl. Appeal No. 1334 of 2012 and Ashoo Surendranath Tewari v. Deputy Superintendant of Police Appeal No. 575/2020. Even though,

the Hon'ble Supreme Court in Ajay Kumar Tyagi as held that an exoneration in department proceedings ipso facto would not lead to exoneration and acquittal in criminal case, the Hon'ble Supreme Court in Ashoo Surendranath Tewari's case has after culling out the principles from previous decisions of the Hon'ble Supreme Court as inter alia stated "in case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person is held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underline principle being the higher standard of proof in criminal cases".

3. In view of the these decisions, it would be appropriate for the learned Special Judge to take on record the report of departmental inquiry in respect of qua the petitioner and examine it during the arguments on charge which are now listed for 23rd January, 2023, in accordance with law.

4. It is clarified that this order should not be taken as an observation on merits of the matter.

5. Petition is disposed of in the aforesaid directions.

6. Order be uploaded on the website of this Court."

3. Learned counsel for the petitioner submits that thus on the ground of parity, the present petitions may also be allowed and the report of the departmental inquiry may be taken on record qua the petitioners.

4. Since the Coordinate Bench of this Court has already permitted the same departmental inquiry report to be taken on record vide order dated 14.12.2022 in Crl.M.C.1346/2022, the present petitions are allowed.

5. The departmental inquiry report dated 27.01.2022 be taken on record.

6. However, it is made clear that the learned Spl. Judge shall consider the departmental inquiry in accordance with law. The observations made herein shall not tantamount to be an expression on the merits of the case.
7. In view of the above, the present petitions stand disposed of.

DINESH KUMAR SHARMA, J

JANUARY 18, 2023
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