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CrI.M.P.No.13599 of 2024
in CrI.R.C.SR.No.48496 of 2024

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M. NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition is filed to condone the delay of 843 days in filing the above revision.

2.The contention of the petitioner is that the petitioner was originally shown as A4 in F.I.R. in Crime No.124 of 2020 for offences under Sections 120(b), 465, 467, 468, 471, 109 & 420 of I.P.C. along with 5 others. After investigation, charge sheet filed before the Lower Court by the respondent police only against A1 and A2 deleting the names of A3 to A6. Thereafter, on the notice of the de-facto complainant, a private complaint filed, witnesses examined and the petitioner was arrayed as accused. At the time of furnishing the copies, it was shown that the petitioner was served with the charge sheet filed by the respondent police, which is not proper. Hence, challenging the order passed by the Court below in CrI.M.P.No.11959 of 2021 dated 20.12.2021, the present revision has been filed with a delay of 843 days. The delay is for the reason that though the order was passed in the year 2021, the



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petitioner was not aware about the pendency of the case. Only on 08.08.2024, the petitioner was served with summons, he appeared before the trial Court, received copies and came to know about the trajectory of the case. Hence, a delay has occurred.

3.The learned Additional Public Prosecutor opposed the contention of the petitioner stating that the petitioner conspired with other accused cheated around 35 innocent person by collecting Rs.1,00,000/- from each person on the promise of securing job. Thereafter, all the accused had benefited of the cheated amount and now absconded. After investigation, charge sheet filed against two of the six named accused in the F.I.R. Hence, the second respondent filed protest petition, the same was allowed and the names of petitioner/A4, A5 & A6 were included as accused. Summons served to them, they evaded service of summons, only after some pressure exerted, all the accused appeared before the trial Court. Even today, A1 is absconding and the case against him got split up.

4.Mr.B.Venugopal, learned counsel appearing for the second respondent/de-facto complainant submitted that the de-facto complainant



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lodge a complaint to the respondent police. Thereafter, he was directed to approach the jurisdictional police and a complaint was lodged before the jurisdictional police, thereafter too, no action taken. Hence, the de-facto complainant filed a petition under Section 156(3) Cr.P.C. before the Lower Court. On the directions of the Magistrate, F.I.R. registered against six persons. In the complaint and in petition under Section 156(3) Cr.P.C., the de-facto complainant annexed documents along with CD containing telephonic conversation between the accused to show that how the accused conspired, joined together and cheated the de-facto complainant and other 35 innocent persons. It is a job racketing case. The accused are so well planned that each stage they ensured that there is no evidence is available and committed a cheating by deception. He further submitted that after filing of the charge sheet some of the accused name dropped from the F.I.R. No notice served to the second respondent. Immediately after came to know about the dropping of the names, he filed a protest petition.

5.It is only a legal impairment that protest petition to be decided under the meaning of private complaint under Section 200 of Cr.P.C. Hence, it has been filed. The trial Court finding that de-facto complainant's contention



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seems to be reasonable with materials, which was already available with the respondent police but they failed to consider all the materials, had directed further investigation. On further investigation, charge sheet filed. In the impugned order the mentioning of Section 210 Cr.P.C. would not arise, since the charge sheet in the case filed and further investigation not on the basis of the private complaint. In view of the same, the objections of learned Additional Public Prosecutor and the second respondent can be considered at the time of admission.

6.In view of the same, the delay stands condoned and the petition is ordered.

19.10.2024

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Note: Registry is directed to number the Criminal Revision, if it is otherwise in order and post the same for Admission on 23.10.2024.



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