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

+ **CRL.M.C. 3948/2024**

NEETU JAIN

..... Petitioner

Through: Mr. Manish Gandhi and Mr. Krishan
Kanhaiya Goel, Advocates

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
State with Insp. Manoj, PS: Shalimar Bagh.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

16.05.2024

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CRL.M.A. 15067/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 3948/2024 & CRL.M.A. 15066/2024 (stay)

3. This petition has been preferred on behalf of the Petitioner under Section 482 Cr.P.C. challenging the impugned order dated 25.04.2024 passed by learned MM-7(NW)/RC/Delhi in CC No.7853/2024, whereby the application filed by the Petitioner for early hearing has been dismissed and seeking a direction to the Trial Court to take up the complaint filed by the Petitioner under Sections 209/211/500 IPC at an early date and preferably with or before hearing the criminal complaint bearing No.11857/2023 filed by Respondents No.2 and 3 herein.



4. Counsel for the Petitioner submits that Petitioner is a rape victim and had lodged a complaint leading to registration of FIR No.44/2014 under Sections 376/420/34 IPC against Respondents No.2 and 3, however the Trial Court acquitted the accused persons and appeal against the judgment is pending consideration. Upon acquittal, Respondents No.2 and 3 filed a false and frivolous criminal complaint No.11857/2023 before the Trial Court as an afterthought and after an unexplained delay of 10 years. Petitioner thereafter filed an application under Section 340 Cr.P.C. to bring on record the true facts so that a just decision could be taken by the Trial Court on the aspect of cognizance qua the criminal complaint. The application is pending as the Trial Court is not taking up the same for hearing.

5. Learned counsel submits that to avoid any technical objection, Petitioner filed a complaint under Sections 209/211/500/34/120B IPC, however, instead of taking cognizance, Trial Court adjourned the application to 11.09.2024 vide order dated 05.04.2024, observing that short date was not possible. Learned counsel had apprised the Court that he was ready to argue and had handed over a compilation of judgments. Since there was an urgency in the matter, Petitioner immediately filed an application on 09.04.2024 for early hearing but even this application was adjourned vide order dated 10.04.2024 for 25.04.2024 knowing fully well that the criminal complaint filed by the Respondents is fixed for 22.05.2024 and the purpose of filing the application would be defeated. On 25.04.2024, the early hearing application has been dismissed.

6. It is urged on behalf of the Petitioner that the Trial Court has failed to appreciate that the complaint case filed by Respondents No.2 and 3 is listed on 22.05.2024 and if the complaint filed by the Petitioner is not taken up on



or before the said date, the same would become infructuous and an undue advantage will inure to the said Respondents. In these circumstances, it is prayed that the Trial Court be directed to take up the complaint filed by the Petitioner for hearing on maintainability or for taking cognizance along with the criminal complaint filed by the Respondents, but not thereafter.

7. Heard.

8. Perusal of the impugned order dated 25.04.2024 passed by the learned MM, reflects that the application filed by the Petitioner for early hearing of her complaint under Sections 209/211/500/34/120B IPC was not entertained on the ground that the Court is burdened with more than 4300 matters out of which more than 400 matters are more than 10 years old and no urgency is made out as both parties have filed complaints against each other, which are pending. Petitioner had sought early hearing of her complaint so that the same could be taken up with the complaint filed by Respondents No.2 and 3, as according to her, the complaint filed by her would have a significant bearing on adjudication of the complaint filed by the said Respondents, which the Court has adjourned to 22.05.2024. There can be no two opinions on the fact that the Trial Court is burdened with a number of cases but it cannot be overlooked that in a given case, in view of the urgency of the relief sought, the Court may have to accord priority to the said case. In this case, Petitioner has requested for an early hearing on the ground that if her complaint is not heard with the complaint filed by the Respondents, the same would be rendered infructuous and moreover, the outcome of their complaint may adversely affect her. This, in my view, was a fact which required consideration.



9. In these facts and circumstances, as requested by counsel for the Petitioner, liberty is granted to file an early hearing application, requesting the Trial Court to prepone the date in the complaint filed by the Petitioner so that the same can be taken up along with the complaint filed by Respondents No.2 and 3. Needless to state that if an application is filed, Trial Court shall consider the same, taking into consideration the urgency expressed and the need to take up both the complaints together.

10. Petition is disposed of in the aforesaid terms along with the pending application.

JYOTI SINGH, J

MAY 16, 2024/kks