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

+ **CRL.M.C. 4434/2024**

TEZBIR CHOUDHARIE

..... Petitioner

Through: Mr. Rishi Sood and Mr. Prafull Singh
Chande, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for the
State.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

28.05.2024

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CRL.M.A. 16811/2024 (Exemption)

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

CRL.M.C. 4434/2024 & CRL.M.A. 16810/2024 (stay)

3. This is a petition filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking setting aside of the order dated 16.04.2024 passed by learned Principal District and Sessions Judge, South, Saket Court, New Delhi in T.P. CRL. No. 46/2023 titled '*Tezbir Choudharie v. State and Anr.*'
4. By impugned order dated 16.04.2024, learned Principal District and Sessions Judge has dismissed the application filed by the Petitioner under Section 408(2) Cr.P.C. and declined to transfer the case to another Court giving detailed reasoning in support of the order, which in my considered opinion calls for no interference.



5. Learned counsel for the Petitioner, at this stage, on instructions, does not press prayer (b) seeking transfer of the case. He, however, submits that a glaring error has occurred in the impugned order, which requires to be rectified for the sake of record as this may have a bearing on merits of the pending case. It is pointed out that in paragraph 14 of the impugned order, the Court has upheld the order of the Trial Court observing that the applications were rightly decided vide orders dated 25.07.2023 and 30.07.2023, overlooking the fact that order dated 25.07.2023 was already set aside in a revision petition filed by the Petitioner vide order dated 05.09.2023.

6. Issue notice.

7. Learned APP accepts notice on behalf of the State.

8. Insofar as the prayer for transfer of the case is concerned, the same is not pressed on behalf of the Petitioner. Court finds merit in the second submission of the learned counsel that the observations in paragraph 14 of the impugned order are in the teeth of the judicial order dated 05.09.2023 passed by the Revisional Court whereby order dated 25.07.2023 was set aside and thus the consequential order dated 30.07.2023 cannot survive and therefore, the said observations are expunged and deleted.

9. Petition stands disposed of in the aforesaid terms along with the pending application.

JYOTI SINGH, J

MAY 28, 2024/shivam