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

+ **CRL.M.C. 5317/2019 & CRL.M.A. 38456/2019**

ASHOK KUMAR

..... Petitioner

Through: Mr. Shanker Chhabra, Ms.
Aakriti Jain Chhabra &
Mr. Gaurav Chhabra,
Advs.

versus

STATE

..... Respondent

Through: Mr. Sanjeev Bhandari
(Adv.), ASC (Criminal)
along with Adv. Anvita
Bhandari, Adv. Kunal
Mittal, Adv. Charu
Sharma, Adv. Arjit
Sharma & Adv. Vaibhav
Vats.
SI Dilsukh, PS KNK
Marg, Rohini

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

20.05.2024

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1. The learned Additional Standing Counsel for the State submits that pursuant to the interim order passed by this Court, whereby the impugned order passed by the learned Special Judge was stayed, no further action could have been taken in regard to the property in question. He, however, fairly submits that at this stage, the petitioners cannot not be held to be involved with the accused persons in the FIR No. 816/2016.

2. The learned Special Judge while hearing the application filed by the petitioner for de-sealing of the premises had directed that the possession of the premises be handed over to DSIIDC being the principal lessor. The property in question was taken by

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the petitioner on lease from the DSIIDC.

3. The said directions were passed by the learned Special Judge noting that the applicant had sublet the premises in which criminal activity was being carried out and it cannot be ruled out that he might be aware of the said illegal activity. The Special Judge also held that the petitioner is responsible for the acts done by the accused persons. The observations made by the learned Trial Court are erroneous.

4. It is not the case of the prosecution that petitioner is the co-accused in the FIR for which the chargesheet has already been filed. Even, at this date, it is not the case of the prosecution that the petitioner is involved in the crime in the said FIR being FIR No.816/2016.

5. Moreover, the learned Trial Court, in the opinion of this Court, has no jurisdiction on the property which has been taken by a person for a valuable consideration and neither can it be directed to be handed over to a principal lessor while hearing the case in relation to the FIR in which that property might be involved in some manner.

6. It is not in doubt that the principal lessor is at liberty to take appropriate action in case it is found that the property is being used in violation of the lease deed. The same, however, would be subject matter of the proceedings which may be initiated by the principal lessor. The order passed by the learned Special Judge, thus, deserves to be set aside.

7. The status report has been filed by the State.

8. It is pointed out that the machines which were being used and seized during the raid being conducted in the present case is the case property and would be required during the pending trial.

9. The learned Additional Standing counsel for the State
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submits that the possession of the same would be taken from the property and deposited in malakhana. He submits that the same was not done as yet because of the interim order passed by this Court.

10. The learned Additional Standing counsel also points out that inadvertently incorrect statement was made on the last date of hearing that the possession of the property has been handed over to the DSIIDC. The statement is taken on record.

11. In view of the above, the present petition is allowed and the State is directed to de-seal the property bearing No.D-60, DSIIDC, Sector-1, Bawana, Delhi within a period of one week after taking the possession of the sealed /seized machinery being the case property in FIR No. 816/2016.

AMIT MAHAJAN, J

MAY 20, 2024

“SK”