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

+ CRL.M.C. 6092/2022

VARUN SOLNAKI

.....Petitioner

Through: Mr. M. K. Sharma, Mr. Manish
Tanwar, Advs.

versus

STATE (GOVT. OF NCT OF DELHI) AND ANR.....Respondents

Through: Mr. Shoaib Haider, APP for the State
SI Deepali, PS Janak Puri
ASI Usha, Security
SI Deepak Tanwar, PS Delhi Cantt

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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11.07.2024

1. The present petition under Section 482 Cr.P.C has been filed by the Petitioner for quashing of the Summoning Order dated 20.05.2022 passed by the Ld. MM-02, Patiala House Court, Delhi.
2. Material on record discloses that an FIR No.39/2013 has been filed against the Petitioner for the offences punishable under Sections 279/338 IPC. The incident took place on 01.02.2013 and the FIR was registered on 03.02.2013. The investigation took nearly four long years to complete and chargesheet was prepared on 06.06.2017, however, the chargesheet was filed only on 02.03.2021. It is stated that without noticing the inordinate delay of more 8 years in filing of the chargesheet, cognizance has been taken by the Magistrate.
3. Learned Counsel appearing for the Petitioner has drawn the attention of this Court to Section 468(1) and submits that cognizance could not have been taken of the offence under Sections 279/338 IPC beyond the period of limitation. She further states that there is no application of mind by the



Magistrate as to why the delay should be condoned.

4. Learned Counsel for the Petitioner strenuously contends that the Apex Court in similar circumstances has quashed the Summoning Order when there has been inordinate delay in taking cognizance. Attention of this Court has also been drawn by the learned Counsel for the Petitioner to the Judgments passed by the Apex Court in P.K. Choudhary vs. Commnader, 48 (GREF), (2008) 13 SCC 229 and Srinivas Gopal vs. Union Territory of Arunachal Pradesh, (1988) 4 SCC 36 and a Judgment passed by this Court in Balbir Singh & Ors vs. The State Govt of NCT of Delhi in **CRL.M.C. 4620/2017** dated 28.11.2023.

5. In view of the fact that the Ld. Magistrate has not taken into account the question of delay and there being no application for condonation of delay on the part of the prosecution, the Impugned Summoning Order dated 20.05.2022 is set aside. The Ld. Magistrate is directed to consider the matter afresh taking into account that fact that matter has become stale inasmuch as more than 8 years have passed after the incident took place provided there is an application for condonation of delay on the part of the prosecution.

6. Though, this Court normally would have quashed the FIR but taking into account the facts of the case that the police has not been able to explain the delay in the Trial Court, this Court is desisting from doing so. However, the Magistrate is requested to take into account the delay that has happened and pass necessary Orders.

7. With these observations, the petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JULY 11, 2024

S. Zakir