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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 8007/2023, CRL.M.A. 29861/2023**

RAHUL AHLAWAT

.....Petitioner

Through: Mr. Amit Alok, Mr. Saurav Prakash,
Mr. Pramod Kr. Yadav, Ms. Smarika
Azad Singh and Mr. Gaurav Bishnoi,
Advocates.

versus

STATE (NCT OF DELHI) AND ANR

.....Respondents

Through: Mr. Laksh Khanna, APP for State
with SI Sita Ram, P.S. Crime Branch.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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31.07.2024

1. By way of the present petition, the petitioner seeks quashing of FIR No. 232/2012 registered under Sections 120B/420 IPC at P.S. Crime Branch.
2. Learned counsel for the petitioner states that petitioner is not named in the FIR and his name has cropped up for the first time in the disclosure of co-accused *Hitesh Mann*. He further submits that petitioner has been falsely implicated in the present FIR as there is no connection between the petitioner and the alleged offence. It is also stated that though the FIR came to be registered in the year 2012 however, charge-sheet has not been filed till date and as such, inordinate delay in investigation has created prejudice, for which reason the FIR ought to be quashed.
3. Mr. Khanna, Id. APP for the State, on instructions from the I.O., states that charge-sheet has already been filed against the present petitioner. He



further submits that the present FIR came to be registered with respect to a question paper leak case wherein, during the course of ongoing examination, co-accused *Shakti Khatri* was apprehended, who disclosed that while undertaking the exam, he was on a direct call with co-accused *Gagan Khatri* who was providing him with the answer key. In his disclosure, *Shakti Khatri* also stated about another candidate namely, *Hitesh Mann* who was also being supplied with the answer key. As *Hitesh Mann* was in the same examination centre, albeit in different room being room No.44, he was also apprehended. He disclosed that it was the present petitioner who was sending the answer key. That co-accused *Gagan Khatri* was also involved in a similar case being another FIR No. 233/2012 registered at P.S. Crime Branch wherein during investigation, his laptops came to be seized. It is stated that as the incriminating evidence was found in the said laptops of *Gagan Khatri*, the same were seized and sent to FSL in the investigation of FIR No. 233/2012. It is submitted that the investigation in the present FIR was delayed as the said laptops were required to be seized. It is further stated that during the investigation, mobile phone of *Hitesh Mann* was seized which showed that at the time of the examination being undertaken, he was in touch with a mobile number 9278130129 which was found to be owned by the present petitioner. Customer Application Form was also seized establishing the petitioner's ownership of the said mobile number. Later, a transfer petition being TRP (Crl.) 35/2023 was filed on behalf of the State thereby seeking consolidation of both the FIRs being of similar nature from the Court of Ld. CMM, South West, Dwarka to the Court of Ld. CMM, West, Tis Hazari Court, which was allowed vide an order of this Court dated 08.05.2023. On the previous dates of hearing, the case status



was summoned from the concerned Court and a report was received wherein it has been stated that charge-sheet stands filed and the accused persons have been summoned. It is also informed that after filing of the charge-sheet in 2019, the Court directed for further investigation pursuant to which, a supplementary challan was filed.

4. During the course of submissions, learned counsel for the petitioner has placed reliance on the decision of Dr. Sarbesh Bhattacharjee v. State NCT of Delhi reported as **2022 SCC OnLine Del 3365**. A perusal of the judgment would show that in the said case, it was contended on behalf of the petitioner that the FIRs were counter blast to a contempt petition filed by the petitioner. While reaching the conclusion, the Court observed that there was inordinate delay on the part of the investigating agency which remained unexplained. The aforesaid decision came to be passed in the facts where there was no explanation from the investigating agency in delaying the trial. The said decision was passed in the particular facts of case which has no bearing on the present case.

5. In the case of Supdt. of Police, Karnataka Lokayukta v. B. Srinivas reported as **(2008) 8 SCC 580**, the Apex court has observed as under:-

“10. There is no general and wide proposition of law formulated that whenever there is delay on the part of the investigating agency in completing the investigation, such a delay can be a ground for quashing the FIR. It would be difficult to formulate inflexible guidelines or rigid principles in determining as to whether the accused has been deprived of fair trial on account of delay or protracted investigation; it would depend on various factors including whether such a delay was reasonably long or caused deliberately or intentionally to hamper the defence of the accused or whether the delay was inevitable in the nature of things or whether it was due to



dilatory tactics adopted by the accused. It would depend upon certain peculiar facts and circumstances of each case i.e. the volume of evidence collected by the investigating agency, the nature and gravity of the offence for which the accused has been charge-sheeted in a given case. The nexus between whole and some of the above factors is of considerable relevance. Therefore, whether the accused has been deprived of fair trial on account of protracted investigation has to come on facts. He has also to establish that he had no role in the delay. Every delay does not necessarily occur because of the accused.

11. A seven-Judge Bench of this Court in P. Ramachandra Rao v. State of Karnataka [(2002) 4 SCC 578 : 2002 SCC (Cri) 830] affirmed the view taken in Abdul Rehman Antulay v. R.S. Nayak [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] and clarified confusion created by certain observations in Common Cause, A Registered Society v. Union of India [(1996) 4 SCC 33 : 1996 SCC (Cri) 589] , Common Cause, A Registered Society v. Union of India [(1996) 6 SCC 775 : 1997 SCC (Cri) 42] , Raj Deo Sharma v. State of Bihar [(1998) 7 SCC 507 : 1998 SCC (Cri) 1692] and Raj Deo Sharma (II) v. State of Bihar [(1999) 7 SCC 604 : 1999 SCC (Cri) 1324] . It was observed that the decision in A.R. Antulay case [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] still holds the field and the guidelines laid down in the said case are not exhaustive but only illustrative. They are not intended to operate as hard-and-fast rules or to be applied like a straitjacket formula. Their applicability would depend on the factual situations of each case. It is difficult to foresee all situations and no generalisation can be made. It has also been held that it is neither advisable nor feasible nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. Whenever there is any allegation of violation of right to speedy trial the court has to perform by balancing the act by taking into consideration all attending circumstances and to decide whether the right to speedy trial has been denied in a given case. As noted above, one month after the order relating to investigation and lodging of FIR, a petition under Section 482 of the Code was filed before the High Court.



12. It is interesting to note that while the High Court quashed the proceedings because of alleged delayed investigation, it permitted the authorities to take decision to continue the proceedings. Therefore, the first ground on which the High Court interfered cannot be maintained."

6. Considering the import of the aforesaid judgement in light of the explanation offered for the delay by the State, I find no merit in the present petition, consequently, the same is dismissed alongwith pending application.

MANOJ KUMAR OHRI, J

JULY 31, 2024

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