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

+ **CRL.M.C. 5868/2024 & CRL.M.A. 22422/2024**

AMIT SRIVASTAVA

.....Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Siddharth Chopra and Ms. Diksha
Mathur, Advocates.

versus

STATE OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State.
SI Suraj Kumar, PS Karol Bagh

+ **CRL.M.C. 5876/2024 & CRL.M.A. 22446/2024**

LALIT MASSEY

.....Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Siddharth Chopra and Ms. Diksha
Mathur, Advocates.

versus

STATE OF NCT OF DELHI AND ANR & ORS.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State.
SI Suraj Kumar, PS Karol Bagh

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

06.08.2024

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1. The Petitioners have approached this Court challenging the Summoning Order dated 12.02.2024 whereby the Magistrate has taken cognizance of the offences punishable under Sections 323/341/506(2)/34 IPC in proceedings which emanates from the FIR No.427/2019 dated



29.11.2019, registered at Police Station Karol Bagh for offences punishable under Sections 323/341/34 IPC.

2. Learned Senior Counsel appearing for the Petitioners raises a preliminary objection that all offences attract the punishment less than three years, and therefore, cognizance could not have been taken after four years from the date of the offence which is 29.11.2019. He states that even if for the Trial Court to exercise jurisdiction under Section 473 Cr.P.C, the explanation should come from side of the Police as to why the chargesheet could not be filed within time in view of Section 468 Cr.P.C. He states that without there being any explanation from the side of the Police, cognizance could not have been taken by the Magistrate in view of the bar under Section 468 Cr.P.C.

3. The objection raised by the learned Senior Counsel for the Petitioners is a formidable one.

4. The Impugned Summoning Order dated 12.02.2024 is a completely unreasoned Order. There no application under Section 473 as well. The Impugned Summoning Order dated 12.02.2024 is, therefore, set aside. The matters are remanded back to the Ld. Magistrate to decide as to whether cognizance can at all be taken in the present FIR or not.

5. With these observations, the petitions are disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 06, 2024

S. Zakir