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

+ **CRL.M.C. 6268/2024**

SURENDER YADAV

.....Petitioner

Through: Mr. Siddharth Singh, Advocate *via*
video-conferencing.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Utkarsh, APP for the State with
SI Yogender Kr., P.S.: Moti Nagar.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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13.08.2024

CRL.M.A. 24007/2024

Exemption granted, subject to just exceptions.

The application stands disposed of.

CRL.M.C. 6268/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner impugns order dated 20.05.2024 made by the learned ASJ, Tis Hazari Courts, Delhi, whereby the learned ASJ has dismissed with costs of Rs.5,000/- an application seeking de-tagging of proceedings in a complaint filed under section 200 Cr.P.C. from proceedings in a charge-sheet filed pursuant to investigation in case FIR No.278/2017 dated 04.08.2017 registered under sections 323/341/34 of the Indian Penal Code, 1860 at P.S.: Moti Nagar, Delhi.

2. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'),



proceedings are to be “*disposed of, continued, held or made*” in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. “*any appeal, application, trial, inquiry or investigation*”, were already ***pending*** immediately before the date on which the BNSS came into force, *i.e.* 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings by changing the governing law during the pendency of such proceedings.

3. Since the present petition has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 528 of the BNSS.
4. Mr. Siddharth Singh, learned counsel appearing for the petitioner submits, that investigation in relation to the FIR is complete and charge-sheet has been filed in that case.
5. Mr. Singh argues, that the petitioner’s father Mr. Shrikant Yadav is not named in the charge-sheet/final report filed under section 173 Cr.P.C. though he has been named in the criminal complaint filed under section 200 Cr.P.C.; and therefore the father’s case cannot be tagged with the proceedings pending before the learned Sessions Court based on the charge-sheet.
6. However, it is noticed that the petitioner in the present case is not the father Shrikant Yadav but his son Surender Yadav.
7. In the circumstances, Mr. Singh seeks leave to withdraw the present petition.



8. Accordingly, the petition is disposed-of as withdrawn; without making any observations on the merits of the issue.
9. It is clarified that such withdrawal shall not foreclose the right of the aggrieved person to file an appropriate proceedings in relation to the subject matter of the present petition, as may be permissible, in accordance with law.
10. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 13, 2024
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