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

+ **CRL.M.C. 6402/2024 & CRL.M.A. 24477/2024**

**ASHIMA KUCHHAL**

.....Petitioner

Through: Mr. Madhav Khurana, Mr. Shashank  
Dewan and Mr. Teekesh Singhal,  
Advs.

versus

**STATE NCT OF DELHI AND ORS.**

....Respondents

Through: Adv. Amit Ahlawat Ld. APP along  
with Shruti Tandon, Mitul Sehrawat,  
Litesh Batra, Shivani Verma, Paulmi  
Yadav, Prashant Pratyay, Advocates  
with SI Deepesh, PS B.K. Road.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER**

**20.08.2024**

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1. This petition has been filed assailing impugned order dated 09<sup>th</sup> August, 2024 passed by the ASJ granting stay of proceedings before the Trial Court in Criminal Case No.5038/2019. An FIR being No.40/2018 under Section 406/420 IPC was registered in April 2018 at the behest of the complainant. Charge-sheet was filed subsequently under Sections 406/420/120B IPC. In 2023, the complainant No.1 passed away. On 18<sup>th</sup> May, 2023, Trial Court passed an order on charge against respondent Nos.2-5 under Sections 406/420 IPC but did not frame charges under Sections 468/471 IPC and nor under Section 120B IPC.
2. A revision petition against the said order filed by the petitioner. The



ASJ passed an order on 01<sup>st</sup> August, 2023 partly allowing the revision directing additional framing of charges under Section 120B IPC along with Section 406/420 IPC and refused to frame additional charges under Sections 468/471 IPC. The said order was passed in presence of the counsel for the accused.

3. However, subsequently respondent No.2 filed another revision petition seeking to set aside the order on charge. An impleadment was filed in January 2024 by the petitioner which was dismissed, but the complainant was allowed to take part in the proceedings. An issue of maintainability was raised which has been pending before the ASJ.

4. It is pointed out by the counsel for the petitioner that no stay order of proceedings was directed by the ASJ throughout pendency of the matter before the ASJ court. However, on 09<sup>th</sup> August, 2024 when the matter was reserved for orders on issue of maintainability, the trial proceedings were stayed till the next date of hearing.

5. The matter is now listed before the ASJ on 07<sup>th</sup> September, 2024.

6. Accordingly, the petition is allowed to the limited extent that the stay on Trial Court proceedings may be vacated, considering that charges have already been framed and have been already assessed by the Revisional Court on 01<sup>st</sup> August, 2023, passed in the presence of the counsel for the accused.

7. This limited direction is also informed by a perusal of the order dated 01<sup>st</sup> August, 2023 which shows that the ASJ had applied its mind and stated *inter alia* that “do not find any illegality, perversity or lack of application of judicial mind, when ld. MM concluded to frame the charges only for offence u/s 420, 406 IPC”. The ASJ then further goes on to additionally framed charges under Section 120B IPC.



8. Needless to state this Court has not observed nothing in the merits of the matter.
9. Petition is disposed of with the aforesaid directions.
10. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**AUGUST 20, 2024/MK**