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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6878/2024 & CRL.M.A. 26273/2024**
SH. VENUGOPAL N DHOOTPetitioner
Through: Mr. Rajneesh Sharma and Mr. Sachin
Nawaani, Advocates.

versus

STATE OF NCT DELHI & ORS.Respondent
Through: Ms. Shubhi Gupta, APP for the State.
Mr. Ajay Kohli and Ms. Dipika Prasad,
Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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02.09.2024

CRL.M.A. 26274/2024 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed of.

CRL.M.C. 6878/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973, the petitioner seeks quashing of orders dated 11.07.2024, 29.07.2024 and 17.08.2024 passed by the learned JMIC, Tis Hazari Courts, Delhi. By way of the impugned orders, the learned JMIC, being seized of Ct. Case No. 12250/2018 titled *Globe Fincap Limited vs. Videocon Reality and Infrastructure Ltd*, has required the presence of the petitioner in court before considering the petitioner's application seeking stay of proceedings *qua* him.

2. Though the present petition has been filed under the provisions of the Code of Criminal Procedure 1973 ('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. The court has heard Mr. Rajneesh Sharma, learned counsel appearing for the petitioner, Mr. Ajay Kohli, learned counsel appearing for the complainant and Ms. Shubhi Gupta, learned APP for the State.
5. Learned counsel for the complainant has also handed-up a copy of a subsequent order dated 31.08.2024, passed by the learned JMIC, to reflect the updated position.
6. On a combined reading of the impugned orders, as well as order dated 31.08.2024 handed-up in court today, it appears that considering the petitioner's health condition and the medical documents produced in support thereof, the learned JMIC has asked for certain clarifications; and was constrained to issue Non-Bailable Warrants (NBWs) against the petitioner only because of the petitioner's repeated non-appearance



before that court, which NBWs have also been stayed *vide* orders dated 29.07.2024 and 17.08.2024.

7. Mr. Ajay Kohli, learned counsel appearing for the complainant points-out that the learned JMIC had also permitted the petitioner to appear through video-conferencing, but so far the petitioner has neither appeared physically nor *via* video-conferencing.
8. Upon an overall conspectus of the facts and circumstances of the case, the petition is disposed-of, with a direction to the petitioner to file before the learned JMIC an affidavit under his own hand and signatures, clarifying the following:
 - 8.1. Whether in the last 02 years, the petitioner has travelled within India or abroad, and if so when, to what destinations, and for what period;
 - 8.2. Whether the petitioner has been admitted to hospital in the last 02 years, and if so, to which hospitals, for what ailment, and for what period.
9. Let an affidavit in the above terms be filed before the learned JMIC on 07.09.2024, which is stated to be the next date before that court.
10. This court is informed that an application is also pending before the learned JMIC seeking stay of proceedings before that court, on the ground that personal insolvency proceedings are pending against the petitioner.
11. Subject to the petitioner filing an affidavit as aforesaid, the learned JMIC is directed to decide the petitioner's plea for dispensing with his physical presence before that court.
12. The petition is disposed-of in the above terms.



13. Pending applications, if any, also stand disposed-of.

At 1:20 P.M.

14. At this stage, learned counsel for the petitioner has mentioned the matter. He submits, that he has received instructions that the petitioner is presently hospitalized, and that therefore, he would require further time to file the affidavit in terms of the above directions.
15. In view of the submission made, it is clarified that if further time is sought on behalf of the petitioner to file an affidavit as directed above, the learned JMIC would consider that request sympathetically.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 2, 2024/ak