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

+ **CRL.M.C. 522/2024 & CRL.M.A. 2072/2024**

MOHAN SHRIVASTAVA @ AKHOURY ONKAR NATH

..... Petitioner

Through: Mr.Rahul Shyam Bhandari,
Ms.G. Priyadharshni,
Mr.Satyam Pathak, Advs.

versus

THE STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr.Shoaib Haider, APP with SI
Suman Bajaj

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

23.01.2024

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1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), seeking quashing of charge-sheet dated 27.06.2017, the supplementary charge-sheet, and the summoning order dated 28.11.2017 in the Criminal Case No.3483/2017, titled *State v. Swati Nirkhi & Ors.*, pending before the Court of the learned Metropolitan Magistrate-05 (North-West), Rohini, Delhi (in short, 'MM').

2. The above charge-sheet has been filed on investigation in FIR No.39/2016 registered with Police Station: Mangolpuri, Delhi under Sections 389/419/506/120B/34 of the Indian Penal Code, 1860 (in short, 'IPC').

3. The learned MM by its order dated 28.11.2017 had been pleased to take cognizance of the charge-sheet and issue notice to the



accused, including the petitioner herein. Some of the co-accused first filed an application seeking transfer of the said criminal case to Allahabad, being Transfer Petition being Tr. P. (Crl) 262/2018, which was allowed by the Supreme Court vide order dated 18.05.2018. Thereafter, on an application filed by the complainant, vide judgment dated 09.03.2021, the criminal proceedings were transferred back to the Court of learned MM at Delhi. The present petition has been filed almost three years thereafter.

4. The learned counsel for the petitioner submits that the charge-sheet was supplied to the petitioner only on 13.12.2022. Even then, the present petition has been filed more than one year therefrom.

5. I am informed that in the meantime the criminal case has not preceded and charges are yet to be framed.

6. While the learned counsel for the petitioner vehemently argues that no case is made out against the petitioner inasmuch as the entire case was based on an alleged phone call, which, as per the FSL report, was in the voice of the father of the main accused, that is, Ms.N, the learned APP for the State submits that there is another piece of evidence in form of the statement of the driver of the victim/complainant who has deposed that he had also received the message from the petitioner herein demanding money for settling the allegations made in the FIR registered at the behest of Ms.N being FIR No.660/2015.

7. In the *State of Haryana & Ors. v. Bhajan Lal & Ors.* (1) 1992 Supp (1) SCC 335, the Supreme Court has cautioned that the power of quashing a criminal proceeding should be exercised very sparingly



and with circumspection, and that too, in the rarest of rare cases; and that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint.

8. This Court at this stage cannot venture to meticulously analyse each and every material produced before the Court in a summary manner to find out as to whether or not the petitioner is guilty of the charges or not. The petitioner would have sufficient opportunity to place his entire case before the Court at the time of framing of charge since the chargesheet has already been filed.

9. I, therefore, do not see any ground made out to interfere or quash the charge sheet at this stage.

10. Accordingly, the present petition is dismissed.

11. It is made clear that all contentions of the petitioner shall remain open to be contended at the stage of framing of charge before the learned MM.

12. Pending application is also disposed of as being rendered infructuous.

NAVIN CHAWLA, J

JANUARY 23, 2024/Arya/RP

Click here to check corrigendum, if any