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

+ **CRL.M.C. 971/2025, CRL.M.A. 4476/2025**

VIKAS KAMAL

.....Petitioner

Through: Mr. Anil Pruthi and Mr. A.K.
Rajvanshi, Advocates.

versus

THE STATE NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Laksh Khanna, APP for State
with SI Rajesh Kumar, PS Vijay
Vihar

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

28.03.2025

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 482 of the Code of Criminal Procedure, 1973²) seeks setting aside the order dated 25th September, 2024 passed by the Additional Sessions Judge, Rohini Courts, Delhi in the proceedings arising from FIR No. 1182/2017 under Sections 4,5,6/8 of the Immoral Traffic (Prevention) Act, 1956³ registered at P.S. Vijay Vihar, Delhi.

2. The Petitioner is the complainant in the aforesaid FIR. Pursuant to his complaint, a chargesheet was filed arraying some of the accused persons. However, subsequently, *vide* order dated 21st October, 2023, charges were framed only against accused Rajesh under Sections 3/4/5/8 of the ITP Act.

¹ "BNSS"

² "Cr.P.C."

³ "ITP Act"



Against this order, the Petitioner preferred a revision petition, however, there was a short delay of 72 days in filing the same. The Petitioner explained the delay by submitting that he was suffering from jaundice. However, owing to the absence of any documentation to support this illness, the Trial Court remarked that since the Petitioner had not furnished any medical record indicating that he was indeed suffering from this medical condition, his plea explaining the delay was wholly unjustified. Accordingly, *vide* the impugned order dated 25th September, 2024, the Trial Court dismissed the revision petition without going into the merits of the case.

3. Counsel for the Petitioner submits that while the Petitioner lacks documentary evidence to substantiate his claim of suffering from jaundice, a valuable right of the Petitioner to challenge the order on charge is being compromised solely on account of delay and technicalities. In this regard, it is noted that the order dated 21st October, 2023, which was assailed before the revisional court, fails to provide any justification as to why the charge was framed only against one of the accused. As such *prima facie*, there is substantial merit in the grounds of the revision urged by the Petitioner. The revisional court should have adopted a more lenient approach on the ground of delay.

4. In this regard, it is pertinent to refer to the judgment of the Supreme Court in *Shilpa & Anr. v. Madhukar & Anr.*,⁴ wherein the Court set aside the order of the revisional court that had been dismissed on the ground of limitation, observing that the revisional court should have condoned the delay and disposed of the petition on its merits. Furthermore, in *Municipal*



Corporation of Delhi v. Girdharilal Sapru,⁵ the Supreme Court held that the revisional court ought not to have dismissed the revision petition solely on the technical ground of delay, without considering the merits of the case.

5. Considering the facts and circumstances as well as the legal principles enunciated in the aforesaid judgments, the Court finds merit in the present petition.

6. Accordingly, the impugned order dated 25th September, 2024 is set aside, and consequently, the Petitioner's application under Section 5 of the Limitation Act stands allowed. The revision petition is restored to its original number and is remanded to the Trial Court for consideration of the same on merits.

7. List before the Trial Court on 15th April, 2025.

8. The Court has not commented on the merits of the case and all rights and contentions of the parties are left open.

9. The present petition stands disposed of accordingly along with pending application(s).

10. Copy of this order be sent to the learned Principle District and Sessions Judge for compliance.

SANJEEV NARULA, J

MARCH 28, 2025/PB

⁴ CrI. Appeal Nos. 558-559/2000, decided on 21st July, 2000.

⁵ (1981) 2 SCC 758.