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

+ CRL.M.C. 3883/2023 & CRL.M.A. 14580/2023, 14581/2023

KANHAIYA RAM GUPTAPetitioner

Through: Mr. Rahul Shukla and Mr.
Ramandeep Singh, Advocates.

versus

STATE (GOVT. OF NCT DELHI) & ANR.Respondents

Through: Mr. Pradeep Gahalot, APP for the
State with SI Sangeeta Malik and ASI
Jagdish Prasad, P.S. Binda Pur.
Mr. Tribindh Kumar, Advocate for
R-2.

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+ CRL.M.C. 3900/2023 & CRL.M.A. 14668/2023

KARUNA SEJPAL GUPTAPetitioner

Through: Mr. Rahul Shukla and Mr. Ramandeep
Singh,
Advocates.

versus

STATE (GOVT. OF NCT DELHI) & ANR.....Respondents

Through: Mr. Pradeep Gahalot, APP for the
State with SI Sangeeta Malik and ASI
Jagdish Prasad, P.S. Binda Pur.
Mr. Tribindh Kumar, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

30.04.2025

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1. This hearing has been done through hybrid mode.
2. The present petitions challenge the orders dated 28.02.2023 and 01.04.2023, passed by the learned Metropolitan Magistrate, Mahila Court-03, South-West, Dwarka Courts, Delhi in case FIR no. 30/2019 under Sections 323/354/354B/451/506/509/34 of the IPC, registered at P.S. Binda Pur.
3. The aforesaid petitions challenge the same impugned orders and therefore are being disposed of by this common order.
4. Learned counsel appearing on behalf of the petitioners submits that the impugned order dated 28.02.2023 was passed by the learned Metropolitan Magistrate without giving an opportunity of hearing to the petitioners. It is pointed out that the order itself records that the lawyers were abstaining from work that day and despite that, the impugned order had been passed. In the said order, although the learned Metropolitan Magistrate records that arguments had been heard and learned counsel appearing on behalf of the petitioners prayed for a discharge; however, there is no observation with respect to the submission(s) made on behalf of the petitioners before the learned Trial Court on point of charge.
5. A perusal of the impugned order would also reflect there is no record of submission(s) made on behalf of the petitioners while passing the said order.
6. Be that as it may, learned counsel appearing on behalf of respondent no. 2 has no objection if the matter is remanded back to the learned Trial Court for fresh examination on the point of consideration on charge.
7. Learned APP for the State also concedes to the fact that no discussion or reference has been made on the petitioners' submission(s) in the said impugned order and fairly concedes that the matter be remanded back. It is

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pointed out that the matter is now fixed before the learned Trial Court on 30.05.2025.

8. Accordingly, the impugned order dated 28.02.2023 and the subsequent order dated 01.04.2023 directing framing of charge are set aside and the matter is remanded back and placed before the learned Trial Court on 30.05.2025. The parties are directed to appear before the learned Trial Court on the said date. The learned Trial Court shall hear fresh arguments on point of charge on behalf of the petitioners as well the prosecution and the complainant and after examining the submissions, pass a reasoned order.

9. With the aforesaid directions, the present petitions are allowed and disposed of accordingly.

10. Pending application(s), if any, also stands disposed of.

11. Copy of this order be sent to the learned Trial Court for necessary information and compliance.

12. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

APRIL 30, 2025/bsr/Pc

Click here to check corrigendum, if any