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

+ **TR.P.(CRL.) 45/2025**

ENFORCEMENT DIRECTORATE

.....Petitioner

Through: **Mr. Shailesh N Pathak, SPP for ED**

versus

ROHIT TANDON AND ORS.

.....Respondents

Through: **Mr. Kartik Khanna, Advocate for Rohit Tandon, Dinesh Bhola and Kamal Jain.**

Mr. Ashish Bhatt and Ms. Vipasha Srivastava, Advocates for accused Subhash Chand Gupta.

Mr. Wiqar Ahmed, Mr. Shubham Parashar, Advocates for Raj Kumar Goel.

Mr. Ajun Malik, Advocate for Ashok Kumar.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

02.07.2025

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1. Judicial file bearing SC No. 407/2017, titled "ED Vs. Rohit Tandon and Ors" ECIR No. 18/DZ-II/2016 has been received along with letter dated 27.05.2025 of learned ASJ(FTC)-01, South East, District, Saket Courts Complex, New Delhi, duly forwarded vide letter No. 34 F Judl./TCR/Intimation/F.40/SE/ Saket/ 2025 dated 28.05.2025, Office Incharge/Judicial Branch for Principal District & Sessions Judge (South-East), Saket Courts Complex, New Delhi.
2. Vide order dated 26.05.2025, learned Principal District & Sessions



Judge, South East District, Saket Courts, New Delhi has passed the following order:-

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2. It is informed that accused Rajesh Jain is the Former MLA of Delhi Assembly.

3. As there is a designated Court to try the matters of MP/MLA at Rouse Avenue Courts, New Delhi, it is appropriate that the present matter is tried by the said designated Court.

4. In these circumstances, the present matter be placed before the Registrar General, Hon'ble High Court of Delhi, New Delhi for appropriate directions.

5. Both the sides alongwith the respective counsels are directed to appear before the Registrar General, Hon'ble High Court of Delhi, New Delhi on 30.05.2025 at 10:00 AM. ”

3. As per the decision of the Hon'ble Administrative & General Supervision Committee of this Court dated 15.04.2019, request received from the learned District & Sessions Judges for the transfer of the case from one District to another District, subordinate to the High Court, shall be placed by the Registry by way of transfer petition before the concerned Bench for appropriate consideration and orders. Accordingly, the file has been placed as a transfer petition before this Court.

4. Criminal Case bearing SC No. 407/2017, titled “ED Vs. Rohit Tandon and Ors” ECIR No. 18/DZ-II/2016.” is stated to be pending before the court of learned Principal District & Sessions Judge, South East District, Saket Courts, New Delhi and one of the accused, namely Rajesh Jain is former MLA of Delhi Assembly. Both Sides duly represented by Spl. PP and learned counsel for respondents fairly state that Special Courts have jurisdiction to try the cases pertaining to MPs/MLAs, which will include sitting MPs/MLAs as also former MPs/MLAs against whom criminal cases have been filed and therefore have no objection if case ECIR No. 18/DZ-



II/2016, titled ED Vs. Rohit Tandon and Ors”, presently pending before the learned Principal District & Sessions Judge, South East District, Saket Courts, New Delhi, be transferred to the Special Court.

5. By virtue of the directions issued by the Supreme Court in the case of **Ashwini Kumar Upadhyay Vs. Union of India & Anr., W.P. (C) 699/2016**, Special Courts were constituted with a view to deal with the cases filed against MPs/MLAs, sitting or former, in order to ensure that such cases pending against them are tried expeditiously. The Coordinate Bench of this Court in the case of **Manjinder Singh Sirsa Vs. State of NCT of Delhi & Anr., CRL M.C. 9128/2023 & CRL. M.A. 34100/2023**, while dealing with an identical issue, observed as under:-

“23. In the aforesaid legal scenario, this Court is of the firm opinion that it cannot go beyond the mandate of the Hon'ble Apex Court, and when the terminology used while passing directions in case of Ashwini Kumar Upadhyay (supra) is perused, it becomes clear that the Hon'ble Apex Court clearly refers to 'former MPs/MLAs' without carving out any specific differentiation among 'former MPs/MLAs'. Consequently, this Court lacks the jurisdiction to interpret the decision in a manner that deviates from the clear directions of the Hon'ble Apex Court. In other words, this Court cannot read something, in between the lines, which is neither the intent nor the content, finding or even obiter of the Hon'ble Apex Court.”

6. Thus, the Special Court can try offences pending against the sitting or former MPs/MLAs and there is no bar for trial of such person who had ceased to be an MP/MLA, when he had allegedly committed the offence. Since it is an admitted position that one of the respondents herein is a former legislator, his case therefore needs to be tried by the Special Court, set up for dealing with cases against MPs/MLAs, whether sitting or former.

7. Transfer Petition is therefore allowed with direction that Criminal Case bearing SC No. 407/2017, ECIR No. 18/DZ-II/2016, titled ED Vs.



Rohit Tandon and Ors” be withdrawn from the court of learned Principal District & Sessions Judge, South East District, Saket Courts, New Delhi and be placed before the learned Principal District & Sessions Judge, Rouse Avenue Court with direction to allocate the same to the concerned Special Court dealing with cases relating to MPs/MLAs. Parties to appear before the court of learned Principal District & Sessions Judge, Rouse Avenue Court on 14.07.2025.

RAVINDER DUDEJA, J

JULY 2, 2025/ib/sk