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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(CRL.) 108/2024**

STATE OF NCT OF DELHI

.....Petitioner

Through: Ms. Priyanka Dalal, APP for State
with SI Lal Chand, PS- G.K. South.

versus

AABID AND ANR.

.....Respondents

Through: Mr. Ajay Tiwari and Mr. Manoj
Kumar, Advocates for R-1.
Mr. R.H.A. Sikander, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **21.04.2025**

1. Judicial file bearing CC No. 131/2024, titled "State Vs. Aabid & Ors." has been received along with letter dated 18.11.2024 of the learned Additional Chief Judicial Magistrate-02, New Delhi District, Patiala House Courts, duly forwarded vide letter No. 12268/Genl./NDD/2024 dated 22.11.2024 of learned Principal District & Sessions Judge (Officiating), Patiala House Courts, New Delhi.
2. Vide order dated 14.11.2024, learned District & Sessions Judge, Patiala House Courts, New Delhi has passed the following order:-

“ Perused the order dated 12.11.2024 of Sh. Siddhant Sihag, Ld. ACJM-02, New Delhi District, Patiala House Courts, New Delhi wherein it is stated that instant matter is triable by the special court constituted to deal with the criminal cases pending against MPs/MLAs in as much as one of the accused is reportedly former legislator.

In view of the above, the present case file he sent to the Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for 26th November 2024 for appropriate directions.

The parties are directed to appear before the Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi on 26.11.2024.”



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 No. 131/2024, FIR No. 411/2020, PS Vasant Kunj, titled "State Vs. Aabid & Ors." is stated to be pending before the court of learned Additional Chief Metropolitan Magistrate-02, New Delhi District, Patiala House Courts and one of the accused is stated to be a former legislator. Learned counsel appearing for respondents fairly states 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 has no objection if case FIR No. 411/2020, PS Vasant Kunj, titled "State Vs. Aabid & Ors.", presently pending before the court of learned Additional Chief Metropolitan Magistrate-02, New Delhi District, Patiala House Courts, be transferred to the Special Court.

5. By virtue of the directions issued by the Supreme Court in the case of **Ashwini Kumar Upadhayay 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 No. 131/2024, FIR No. 411/2020, PS Vasant Kunj, State Vs. Aabid be withdrawn from the court of learned Additional Chief Judicial Magistrate-02, New Delhi District, Patiala House Courts 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. Respondents/accused to appear before the court of learned Principal District & Sessions Judge, Rouse Avenue Court on 30.04.2025.

RAVINDER DUDEJA, J.

APRIL 21, 2025

RM