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

% *Date of decision: 17th January, 2025*

+ **CRL.M.C. 3197/2021 & CRL.M.A. 19729/2021 (Stay)**

BHAJJAN KAUR

.....Petitioner

Through: Mr. Vishwendra Verma, Advocate.

versus

STATE

.....Respondent

Through: Mr. Satinder Singh Bawa, APP for State.

Insp. Naveen Dahiya, EOW, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "CrPC"*) has been filed on behalf of the Petitioner seeking *quashing of the FIR No. 280/1999 under Sections 406/420/468/471/120B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 50(1) of the Delhi Sales Tax Act (hereinafter referred to as "DST Act") and Section 9 of the Central Sales Tax Act (hereinafter referred to as "CST Act")* registered at Police Station I.P. Estate, Delhi.

2. It is submitted in the Petition that the present FIR was registered against the Petitioner on the allegations that the dealer was evading Sales Tax and other allegations were also made. It was claimed that by



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using/issuing bogus 'C' Forms, offence of cheating and breach of faith were also committed. In the Chargesheet, the Petitioner was shown as involved in 'C' Form No. 11P-572800 only.

3. It is claimed that the Petitioner never used any bogus Forms and has used the Forms only for the specific purpose for which it was issued by the Department.

4. It is asserted that the Chargesheet was filed on 10.11.2003, wherein it was observed that while 'C' Form No. 11P-572800 was issued in the records of the Sales Tax Department Delhi to Mahinder Bedi & Sons of which the Proprietor was the Petitioner/Bhajjan Kaur, but was used by M/s Grover Rubber Industries to procure 30 loads of Latex worth Rs. 75,00,000/- during the year 1998-99 from M/s Harrisons Malayalam Ltd., Bristow Road, Cochin, Kerala.

5. The Petitioner has asserted that she was never involved in any illegal activity and cooperated during the investigations and had also provided all the documents to the Investigating Officer, but the facts were not presented in a correct manner before the Court. The Petitioner had rightly issued 'C' Forms to Mahadev Engineering Works and the Form was used by it in the same Financial Year 1993-94.

6. It is submitted that during the Bail, the Investigating Officer enquired about the said fact and on the Report submitted by him, the Bail was granted to the Petitioner.

7. It is further submitted that there is no evidence against the Petitioner to prove any Cheating or Breach of Trust of the Government revenue. There is no misuse of 'C' Forms issued in the name of the Proprietorship Firm of



the Petitioner. No violation of DST Act and CST Act was committed by the Petitioner and there is no evidence for the offence under Section 420 of IPC, 1860.

8. Likewise, there is no Breach of Trust committed by the Petitioner and no offence under Section 406 of IPC, 1860 is made out.

9. Similarly, no Charges under Sections 468/467 of IPC, 1860 are made out and there was no conspiracy entered into by the Petitioner and Section 120B of IPC, 1860 is also not attracted.

10. The Petitioner has been facing trial for the last 21 years and is suffering from various ailments. The Petitioner is now 71 years old and has appeared in the Court on innumerable occasions. There is no delay on her part and she is entitled to be discharged and the present FIR is liable to be quashed on account of the inordinate delay in conclusion of the trial.

11. Reliance has been placed on the decision in Avdhesh vs. State of UP and Another, dated 19.04.2019 decided by High Court of Allahabad, Amit Rod and Others vs. State of Uttarakhand and Others, dated 31.10.2018 decided by High Court of Uttarakhand, Parbatbhai Aahir Alias Parbatbhai Bhimsinhbha Karmur and Others vs. State of Gujrat and Another, (2017) 9 SCC 641, N.P. Immanuel vs. State, dated 27.09.2019 decided by Madras High Court and Santosh Dev vs. Archana Guha, dated 03.02.1994 decided by Supreme Court.

12. **Learned Additional Public Prosecutor on behalf of the State** has submitted that the charges had been framed on 24.03.2021 and the testimony of 5 prosecution witnesses, out of 17 witnesses, has been recorded. The trial is proceeding expeditiously and there is no ground for discharge, especially



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in the light of the Charges framed against the Petitioner for the offences which are serious in nature.

13. Submissions heard and record perused.

14. It is not in dispute that the FIR had been registered in the year 1999 for the offences, punishable under *Sections 406/420/468/471/120B of IPC, 1860 and Section 50(1) of the DST Act and Section 9 of the CST Act* along with the allegations of Forgery, Breach of Trust and use of False Documents. From the FIR, the Chargesheet and the Charges which have been framed, it is evident that the allegations made against the Petitioner are serious in nature.

15. In *Hussainara Khatoon (I) vs. Home Secretary, State of Bihar*, MANU/SC/0119/1979, the Apex Court observed that Article 21 of the Constitution of India confers constitutional right on every person not to be deprived of his life or liberty, except in accordance with the requirement of that Article that some semblance of a procedure should be prescribed by law which should be reasonable, fair and just. If a person is deprived of his liberty under a procedure which is not fair, reasonable or just, such deprivation would be violative of Fundamental Right. It was further observed that deprivation of liberty of a person cannot be termed as reasonable, fair or just unless such procedure ensures a speedy trial for the determination of guilt of such person. Therefore, reasonably expeditious trial is an integral and essential part of the Fundamental Right and Liberty enshrined under Article 21 of the Constitution. It was further observed that peculiar facts and circumstances of the individual cases may be considered for quashing of the proceedings.



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16. The principle enunciated therein was followed by the Madras High Court in N.P. Immanuel (supra), wherein while endorsing that speedy trial is a Fundamental Right, it was observed that the First Report was filed in the year 2003, but thereafter, repeated Applications were being filed by the Complainant and further trial on account of which did not proceed in last 16 years. It was observed that the delay caused was *de facto* due to the Complainant and the prosecution and on account of fault of the Complainant, such ordeal of undergoing trial without committing any fault, was suffered by the Petitioner/ Accused in the Complaint Case. Consequently, the Chargesheet filed in the Complaint Case was quashed.

17. The Apex Court in the matter of Santosh Dev, (supra), it was observed that Article 21 of the Constitution of India recognises the constitutional right of speedy trial. It was also noted that the trial was not concluded within four years but in terms of Section 245(3) of Code of Criminal Procedure, 1973 which was inserted in 1998, mandated that the trial be completed in four years.

18. *In the present case*, it cannot be denied that the FIR got filed in the year 1999, in which the Chargesheet came to be filed on 10.11.2003 and the Charges were framed in 2021. However, since then, testimony of 5 witnesses, out of 17 prosecution witnesses, has been recorded. None of the grounds as stated in the aforesaid judgments has been pleaded in the present case, aside from the fact that the Petitioner has appeared umpteen times before the Court and is now 71 years old and is ailing.

19. It is also alleged that the Petitioner was not involved in the commission of the offence, though it is the matter of trial.



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20. This Court understands the ordeal of facing trial over such a long period, but at the same time, it cannot be overlooked that the allegations made are of forgery and under Section 468/471 of IPC, 1860, aside from other provisions of cheating and using of forged documents.

21. In these circumstances, there is no case made out for quashing of the Chargesheet as well as of the FIR.

22. However, the learned Trial Court is directed to complete the trial expeditiously, preferably within six months.

23. Accordingly, the Petition along with pending Application is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 17, 2025
S.Sharma