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

+ CRL.M.C. 1052/2022 & CRL.M.A. 4540/2022

NEELAM PHAUGAT Petitioner

Through: Mr. Subhash Phogat, Advocate

versus

THE STATE GOVT OF NCT DELHI & ORS. Respondents

Through: Mr. Amit Chadha, APP for the
State

Mr. Suhail Sehgal & Mr. Rahul
Gaur, Advocates for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **31.03.2022**

The proceedings in the matter have been conducted through hybrid mode [physical and virtual hearing].

1. Issue notice. Mr. Amit Chadha, learned Additional Public Prosecutor, accepts notice on behalf of the State. Mr. Suhail Sehgal, learned counsel, accepts notice on behalf of the respondent Nos. 2 and 3.

2. The petitioner challenges an order dated 06.12.2021, passed by the learned Additional Sessions Judge-03, North West District, Rohini Courts, Delhi [“the Sessions Court”], in CrI. Rev. 202/2019.

3. By the impugned order, the Sessions Court has set aside an order dated 18.09.2019, passed by the learned Metropolitan Magistrate [“MM”] under Section 156(3) of the Code of Criminal Procedure, 1973 [“CrPC”]



at the instance of the petitioner herein. Mr. Subhash Phogat, learned counsel for the petitioner, submits that the order under Section 156(3) of the CrPC was not susceptible to revision under Section 397 of the CrPC at all. He cites several decisions of the Supreme Court, and of this Court to the effect that the proposed accused has no role until an FIR is registered against them.

4. Mr. Suhail Sehgal, learned counsel for the respondent Nos. 2 & 3, on the other hand, cites the judgment of this Court *inter alia* in *Nishu Wadhwa vs. Siddharth Wadhwa and Ors.* [W.P.(CrI.) 1253/2016, decided on 10.01.2017] and *Simret Katyal vs. The State Govt. of NCT of Delhi and Ors.* [CrI. M.C. 3729/2015, decided on 11.09.2015], which held that the order of the Magistrate is capable of revision.

5. Learned counsel for both the parties may file compilation of judgments upon which they wish to rely, within two weeks.

6. Mr. Phogat requests that the proceedings before the MM, pursuant to the revisional order, be stayed.

7. At his request, the proceedings before the MM in the petitioner's complaint under Section 156(3) of the CrPC are stayed until the next date of hearing.

8. List on 05.05.2022.

PRATEEK JALAN, J

MARCH 31, 2022

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[Click here to check corrigendum, if any](#)