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

+ W.P.(CRL) 133/2022

SI YASHPAL SINGH & ANR.

..... Petitioners

Through Mr. N. Hariharan, Sr. Advocate
alongwith Mr. Dhananjay Singh
Sehrawat, Mr. Varun Deswal,
Mr. Vaibhav Sharma, Mr. Siddarth S
Yadav, Ms. Punya Rekha Angara,
Mr. Prateek Bhalla Advocates and the
petitioner - in person.

versus

STATE NCT OF DELHI & ORS.

..... Respondents

Through Mr. Avi Singh, ASC for the State
with Mr. Karan Dhalla, Advocate

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **20.01.2022**

HEARD THROUGH VIDEO CONFERENCING

CRL.M.A. 1268/2022 (Exemption)

Allowed, subject to all just exceptions.

W.P.(CRL) 133/2022 & CRL.M.A. 1267/2022

1. This petition under Article 226 of the Constitution of India read with Section 482/483 Cr.P.C is directed against the orders dated 20.09.2021 and 04.01.2022, passed by the Learned CMM, Karkardooma Courts, in Cr. Case 721/2016, whereby the learned CMM observed that, sanction has not been obtained by the Police, as warranted under Section 15A of the Essential Commodities Act, to proceed ahead with the proceedings against one Braham Wati. A final opportunity was given to the State to obtain sanction,

subject to a cost of Rs.20,000/-. In the same order the learned CMM has directed the Commissioner of Delhi Police to conduct an enquiry and fix responsibility on the Officers on whom cost must be fixed. Vide order dated 04.01.2022, it is stated that the cost has not been deposited, and last and final opportunity has been given to the State to deposit the same within two weeks.

2. The learned counsel for the petitioner submits that in the first place no sanction is required to prosecute the accused under Essential Commodities Act for the reason that the person against whom the prosecution was to be launched is not a public servant. He further submits that the learned CMM has exceeded his jurisdiction by getting into the administrative functioning of the authorities which could not be done because of separation of powers.

3. Mr. Avi Singh, learned ASC for the State, submits that there is a provision for imposition of fine in the Delhi Police Act.

4. Issue Notice.

5. Mr. Avi Singh, learned ASC for the State, accepts notice and seeks time to file a reply.

6. Let the reply be filed within three weeks.

7. List on 22.03.2022.

8. Till the next date of hearing, the order dated 20.09.2021 shall be kept in abeyance.

SUBRAMONIUM PRASAD, J

JANUARY 20, 2022

Rahul