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

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Reserved on: 08.01.2024
Pronounced on: 24.01.2024

+ **CRL.M.C. 316/2024**

MANJINDER SINGH SIRSA Petitioner

Through: Mr. N. Hariharan, Senior Advocate with Mr. Jasprit Singh Rai, Mr. Yoginder Handoo & Mr. Ashwin Kataria, Advocates.

versus

STATE NCT OF DELHI AND ANR. Respondent

Through: Mr. Manoj Pant, APP for the State with Inspector Chetan Mandia, EOW.
Mr. Mohit Mathur, Senior Advocate with Mr. Naginder Benipal, Mr. Sumit Misra & Mr. Mayank Sharma, Advocates for R-2.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.****CRL.M.A. 1201/2024 (Stay)**

1. By way of present application under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C. '), the petitioner herein seeks



ad-interim stay of the proceedings in the Complaint Case No. 09/2023, titled '*Manjit Singh GK vs. Manjinder Singh Sirsa & Ors.*', pending before learned ACMM-04, Rouse Avenue Court, New Delhi.

2. The summons in the aforesaid complaint case were issued against accused persons namely Manjinder Singh Sirsa, Harmeet Singh Kalka and Jagdeep Singh Kahlon by the learned ACMM *vide* order dated 30.06.2023. The accused persons had preferred a Criminal Revision No. 11/2023 against the said order, and the same stood dismissed *vide* order dated 29.11.2023, which has been assailed in the above-captioned petition i.e. CRL.M.C. 316/2024.

3. Learned Senior Counsel, appearing on behalf of petitioner, argues that impugned order dated 29.11.2023 passed by learned ASJ in revisional jurisdiction has led to serious miscarriage of justice and is an abuse of the process of Court, as the learned ASJ has passed the order contrary to the provisions of law. It is stated that the private complaint has been filed by the respondent no. 2/complainant, not only to make police investigations infructuous, but also to seek a clean chit collaterally for his misdeeds. It is argued by learned Senior Counsel that the impugned order has been passed on the amended complaint of the complainant alleging defamation against the petitioner, which on the face of it, is time barred and does not make out the ingredients of the offence and is based on inadmissible material and allegations. It is argued that the alleged offence of defamation is committed in February, 2020, which the petitioner himself claims to have known on 16.02.2020, and thus, the alleged defamation had crystallized when it came to knowledge of



respondent no. 2/complainant, but the complainant did not file proceedings against Sh. Avtar Singh Hit, who had filed the letter dated 04.04.2016 in a civil suit and the complainant waited for ATR report dated 27.06.2022, which clearly shows that complaint is *malafide* and collateral. It is stated that for the incidents of alleged defamation are alleged to have taken place on 16.02.2020 and 21.02.2020, but the complainant has neither preferred application for condonation nor explained the delay. Thus, it is vehemently argued that the complaint, being filed after expiry of period of three years, is barred by time. It is further contended by learned Senior Counsel that the learned ASJ failed to take note of Section 210 of Cr.P.C. which provides that when in a criminal case instituted on private criminal, it is made to appear to learned Magistrate, during the course of inquiry or trial held by him, that an investigation by police is in progress in relation to the offence which is subject matter of inquiry or trial held by him, the learned Magistrate shall stay the proceedings of such inquiry or trial and call for a report in the matter from the police officer conducting the investigations. In this regard, it is submitted that allegations of defamation are regarding the letter dated 04.04.2016 in regard to usurping the land, which is under investigation in an FIR. On these grounds, it is prayed on behalf of petitioner that the proceedings before the learned Trial Court be stayed, during the pendency of present petition.

4. While opposing the grant of stay of trial proceedings, learned Senior Counsel for respondent no. 2/complainant argues that the petitioner has raised all such contentions before the learned ASJ and



the learned ASJ, by way of a detailed order, has upheld the summoning order and rejected the revision petition filed by the petitioner and co-accused. It is also submitted that petitioner has been adopting delaying tactics, since after the impugned order was passed on 29.11.2023, the petitioner chose not to challenge the same, rather preferred a petition before this Court challenging the jurisdiction of Special Court constituted for cases pertaining to MP/MLAs. It is stated that only after this Court had dismissed his previous petition, the petitioner has now assailed the order dated 29.11.2023. It is argued that learned ASJ has dealt with the issue of limitation and has rightly observed that allegations against the accused persons extend beyond the incidents of February, 2020 since the incidents enumerated in the complaint were also of the year 2022 and 2023, and the videos and social media posts etc. of the defamatory content was still available on the internet. It is further argued by learned Senior Counsel that it was the complainant himself who had filed an application under Section 156(3) of Cr.P.C. seeking registration of FIR to probe into forgery of signatures of complainant on the letter which dated 04.04.2016 which purportedly transfers the land belonging to a school in favour of Sh. Avtar Singh Hit. It is submitted that learned ASJ has also rightly held that the contents of FIR and the offences for which it has been registered are different from the contents of complaint filed in present case for offence of defamation, and thus, Section 210 of Cr.P.C. will have no applicability. Therefore, it is prayed that proceedings before the



learned Trial Court be not stayed and present application be dismissed.

5. This Court has heard arguments addressed by learned Senior Counsels appearing for both the parties, and has perused the material available on record.

6. The *first* ground raised before this Court, for the purpose of seeking stay of trial court proceedings, was that summons could not have been issued by the learned ACMM in this case since the complaint was barred by time.

7. With regard to the aforesaid contention, this Court has gone through the contents of the impugned order and the detailed discussion on the point of limitation. It is the case of petitioner that the complaint was barred by limitation because the allegations of addressing the complainant as *golak chor* etc. were made in the month of February 2020 even as per the complainant, and since the complainant had come to know about the same immediately thereafter, the offence would be complete on the said date, and the complaint being filed after a period of more than three years would be barred by limitation. However, a perusal of the complaint filed for the offence of defamation by the respondent no. 2 reveals that there are allegations against the accused persons, of defaming the complainant between the period 2020 to 2023, such as allegations in para 16(a), which relates to alleged defamatory statements made by petitioner herein on 21.01.2023, para 16(c) is in regard to allegations *qua* incident dated 31.01.2023, para 16(e) is in regard to press conference conducted by accused no. 2 in the year 2022, etc.



Furthermore, it is also the case of complainant and was also argued on behalf of him that the accused persons including the petitioner herein had been defaming the complaint regularly through social media and the social media posts, videos and press conferences of the alleged incidents are even available on internet and social media till date and have not been removed by the accused persons. *Prima facie* from the perusal of records, it appears that the offence of defamation in this case was not a one-time offence committed in the year 2020. At this stage, this Court does not *prima facie* find any infirmity with the observations, so as to stay the proceedings before the learned Trial Court.

8. The *second* ground raised before this Court, for the purpose of seeking stay of trial court proceedings, was that the Court was bound to stay the proceedings in this case since an FIR in respect of same allegations and offence stood already registered and thus, proceedings in present complaint case could not have continued in view of Section 210 of Cr.P.C.

9. In this regard, this Court has again analysed the detailed discussion made in the impugned order dated 29.11.2023 by the learned ASJ. This Court notes that the learned ASJ, after examining the provision of Section 210 of Cr.P.C. and the judicial precedents on it, has rightly observed that the FIR No. 08/2023, registered at P.S. Economic Offences Wing, Delhi, in relation to preparation of forged letter dated 04.04.2016 was registered on the basis of complaint filed by the respondent no. 2/complainant herein, pursuant to an order passed under Section 156(3) of Cr.P.C. The said FIR stands



registered under Sections 420/468/471/120B of IPC. It is important to note that the FIR has not been registered under Sections 499/500 of IPC i.e. for the offence of defamation, in relation to which the complainant had preferred to file the present complaint. This Court also note that the learned ASJ, after considering the law on point, had observed that the purpose of Section 210 of Cr.P.C. was to avoid taking cognizance of the same offence again, to avoid separate trial for the same offence. However, in the present case, the complaint case has been filed for offence of defamation and the FIR has been registered for offences of cheating and forgery, and the question of taking cognizance of the same offence would not arise, besides the fact that Court is also barred from taking cognizance of the offence of defamation on a police report, which can only be taken on a complaint filed by the aggrieved party. It was also observed by learned ASJ that this is not a situation where if cognizance is taken on the basis of police report, it would be for the same offence for which the cognizance is taken in the complaint case, considering the fact that cognizance in a defamation case can be taken only on the basis of a complaint and not on the basis of police report.

10. It is also important to note that present complaint is not merely based on the imputations made against the complainant by the accused persons premised on a letter dated 04.04.2016, alleged as a forged letter by the complainant, but the complaint also refers to several other incidents and allegations against the accused persons, which have been detailed out in para 16 of the complaint. This Court has perused para 16 of the complaint, whereby the complainant has



listed out several statements made by the accused persons, which were published in print and electronic media, between the period 2020 to 2023, where the complainant has been addressed as *golak chor, kalankit pradhan, etc.*

11. Thus, upon a *prima facie* examination of the impugned order and without going much into the merits of the case, lest it affects the case of the petitioner or respondent no. 2 at a later stage before this Court or Trial Court, this Court finds that the learned ASJ has examined in detail, the issue of registration of FIR in relation to letter dated 04.04.2016 and simultaneous proceedings in the present complaint case for commission of offence of defamation, and at this stage, this Court does not find any reasons to stay the proceedings in the present complaint case.

12. In the main petition, where the petitioner has sought setting aside of impugned order and order of summoning, notice has already been issued. However, for the reasons recorded in the preceding paragraphs, this Court is not inclined to stay the proceedings before the learned Trial Court.

13. Accordingly, the present application stands dismissed.

14. It is however clarified that the aforesaid observations are only *prima facie* in nature and shall not be construed as opinion of this Court on the merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 24, 2024/zp