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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 996/2002, CRL.M.A. 20516/2024

KRISHAN KUMAR

.....Appellant

Through: Mr. Anurag Andley, Mr. Aditya Andley, Mr. Tanmay Gupta and Mr.Sahil Nagar, Advocates

versus

STATE OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the State
SI Sandeep Kumar with Insp. Kumar Jiweshwar, PS Kashmiri Gate

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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16.07.2024

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed under Section 374 of the Cr.P.C challenging judgment of conviction dated 11th November 2002 and order on sentence dated 12th November, 2002, passed by Id. ASJ, in Sessions Case No. 621/96 arising out of FIR No. 79/91 under Sections 452/302/307/324/34 of I.P.C. registered at P.S. Kashmere Gate.

CRL.M.A. 20515/2024

3. This is an application under Section 482 read with Section 329 of the Cr.P.C. has been filed on behalf of the Appellant seeking postponement of hearing of the present appeal until the Appellant is in a sound mind and able



to give instructions to his Counsel for addressing submissions.

4. The case of the Appellant in the application is that the Appellant suffers from serious medical conditions, namely, dementia and psychosis and at times he has been aggressive and also, has manic episodes.

5. Various medical records of the Appellant have been attached with the application including the prescriptions from Lady Hardinge Medical College and Sucheta Kriplani Hospital.

6. The submission on behalf of the Appellant is that he is currently undergoing treatment at Institute of Human Behaviour and Allied Sciences (IHBAS). Ld. Counsel relies upon Sections 328 and 329 of the Cr.P.C as also on the decision of the Supreme Court in **Vivian Rodrick v. State of West Bengal, (1969) 3 SCC 176**, to argue that unless and until the Appellant is in a coherent state of mind to enable him to give instructions and to answer questions of the facts in the present appeal, the hearing of the appeal ought to be postponed.

7. Ld. Counsel for the Appellant further submits that the said provisions ought to be extended to hearing of appeals, though they are directly applicable for the Trial Court.

8. Issue notice.

9. Ld. APP for the State/Respondent accepts notice.

10. Let the Respondent verify all the facts recorded in the application from the concerned hospitals/institutes and place on record a report on the following aspects:

- (i) The present medical (physical and mental) health of the Appellant.
- (ii) Whether the mental condition of the Appellant is reversible or is



it an irreversible situation.

11. List on 11th September, 2024.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

JULY 16, 2024/tp/bh/NS