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

+ **CRL.L.P. 323/2024**

CENTRAL BUREAU OF INVESTIGATION.....Petitioner

Through: Mr. Ravi Sharma, SPP,
CBI with Mr. Premtosh K.
Mishra, Mr. Praphull
Kumar, Mr. Ishann
Bhardwaj and Ms.
Madhulika Rai Sharma,
Advs.
T.N. Sharma, Inspector,
CBI, BSFB, Delhi.

versus

NARAYAN DIWAKAR & ORS.Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
10.09.2024

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1. The present petition is filed challenging the judgment dated 23.01.2024, passed by the learned Special Judge (PC Act) (CBI)-16, Rouse Avenue District Courts, New Delhi, pursuant to which the respondents were acquitted.
2. The reason for acquittal of Respondent No. 1 was that the sanction under Section 197 of the Code of Criminal Procedure, 1973 (CrPC) was not obtained.
3. The learned Special Public Prosecutor for the Central Bureau of Investigation submits that Respondent No. 1 was charged for having fabricated the record which cannot be called to have been done in discharge of his official duties.
4. He submits that the provisions of Section 197 of the CrPC



do not protect each and every act of the public servant while in service, and only such acts and omissions which are done in discharge of official duties are protected under the provisions of Section 197 of the CrPC.

5. He submits that the fabrication for the purpose of committing further crime though have been committed while being a public servant, would not be covered under Section 197 of the CrPC.

6. He relies upon the judgment passed by the Hon'ble Apex Court in the case of *Shadakshari v. State of Karnataka and Another* : 2024 SCC OnLine SC 48.

7. Issue notice. Notice be served through all permissible modes.

8. List on 12.12.2024.

AMIT MAHAJAN, J

SEPTEMBER 10, 2024

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