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

+ **CRL.REV.P. 1067/2024**

CENTRAL BUREAU OF INVESTIGATION

.....Petitioner

Through: Ms. Harpreet Kalsi, Advocate for Mr.
Anupam S. Sharrma, SPP-CBI with,
Mr. Prakash Airan, Mr. Abhishek
Batra, Mr. Ripudaman Sharma, Mr.
Vashisht Rao and Mr. Syamantak
Modgill, Advocates.

versus

ASHWANI SHARMA & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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28.08.2024

CRL.M.A. 25520/2024 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.A. 25521/2024

1. This application has been filed by the Petitioner for condonation of delay of 135 days in re-filing the present petition.
2. For the reasons stated in the application, the same is allowed and the delay in re-filing the petition is condoned.
3. The application is disposed of.

CRL.REV.P. 1067/2024

1. The Petitioner/CBI has approached this Court challenging the Order dated 30.10.2023 passed by the Ld. Special Judge (PC Act), (CBI-18),



Rouse Avenue District Courts, New Delhi discharging the Accused/Respondents herein on the ground that the investigation has been conducted by an Officer below the rank of Inspector, thereby violating Section 17 of the Prevention of Corruption Act, 1988 (*hereinafter referred to as "PC Act"*).

2. Learned Counsel appearing for the Petitioner/CBI submits that the Trial Court has not taken into account the proviso to Section 17 of the PC Act according to which a Police Officer below the rank of an Inspector of Police can be authorised by the State Government by a general or special order. She contends that the reading of proviso also indicates that without a general or special order, if a Magistrate accords permission to an officer below the rank of an Inspector then such an officer can also carry out investigation.

3. Learned Counsel for the Petitioner/CBI draws the attention of this Court to an application filed by the Superintendent of Police, CBI seeking permission of the concerned Court for the investigation to be conducted by Shri J. S. Yadav, SI, CBI, ACB. She states that the said application was allowed by the Court *vide* an Order dated 21.03.2007 and pursuant to which the investigation was carried by Shri J. S. Yadav, SI, CBI, ACB and the chargesheet was filed by him. She states that this Order has not been taken into account by the Trial Court while discharging the Accused/Respondents.

4. Issue notice.

5. On payment of process fee, let notice be issued to the Accused/Respondents through all permissible modes, including *Dasti*.

6. Let the Accused/Respondents be also served through the Investigating Officer (IO).



7. List on 04.12.2024.

SUBRAMONIUM PRASAD, J

AUGUST 28, 2024

S. Zakir