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

+ **CRL.M.C. 7466/2024 & CRL. M.A. 28495/2024**

**RAJAN KATARIA ORS.**

.....Petitioners

Through: Mr. N. Hariharan, Sr. Advocate with  
Mr. Tarun Johri, Mr. Ankur Gupta,  
Mr. Vishwajeet Tyagi, Mr. Ms. Punya  
Rekha, Ms. Vasundhara, Mr. Aman  
Akhtar, Ms. Sana Singh and Mr.  
Vinayak Gautam, Advocates

versus

**STATE OF NCT OF DELHI**

.....Respondent

Through: Mr. Ajay Vikram Singh, Addl. PP for  
the State with SI Yujvendra Singh,  
Crime Branch

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**ORDER**

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**07.01.2025**

1. The present petition has been filed seeking following relief:
  - (a) Allow the instant Petition and thereby, quash and set-aside the Impugned Order dated 28.06.2024 in Cr. Case No. 87603 of 2016 under Section 334/338/304A/34IPC titled State Versus Rajiv Ahuja & Ors. passed by Ld. Chief Metropolitan Magistrate, South-East District, Saket Court, Delhi;
  - (b) Allow the Application filed by the Petitioner's under Section 258 Cr.P.C and thereby, direct stoppage of proceedings against accused No. 6 to 16 in Cr. Case No. 87603 of 2016 titled State Versus Rajiv Ahuja & Ors. which is pending adjudication before Ld. Chief Metropolitan Magistrate, South-East District, Saket Court, Delhi; and



(c) call for the records of Cr. Case No. 87603 of 2016 titled State Versus Rajiv Ahuja & Ors. pending adjudication before Ld. Chief Metropolitan Magistrate, South-East District, Saket Court, Delhi.

2. Mr. N. Hariharan, the learned Senior Counsel appearing on behalf of the petitioners submits that the learned trial court has erred in not considering the full legal import of Section 41 of the Metro Railway (Construction of Works) Act, 1978 & Section 43 and Section 88 of the Metro Railways (Operation & Maintenance) Act, 2002, which confers legislative protection on the activities performed in good faith by the employees of Metro Railway Administration.

3. He further submits that the conclusion that contention of good faith or lack of it, can be appreciated only at the stage of trial and not before that, is an erroneous conclusion, which is in teeth of and is in violative of mandate and intent of Section 41 of Metro Railway (Construction of Works) Act, 1978.

4. He further submits that there is no legal bar against maintainability of an application under Section 258 Cr. P.C. after cognizance of offence is taken by learned Magistrate.

5. He submits that the report obtained by the prosecution from IIT Roorkee has not been adverted to by the learned trial court which clearly states that there is no wilful negligence on part of the petitioners and it was a collective judgment error.

6. In view of the above, issue notice. Learned Addl. PP appearing on behalf of the State accepts notice. He submits that Section 41 of Metro



Railway (Construction of Works) Act, 1978 is not attracted to the present case, in as much as, the same is applicable only where the damages have been caused or are likely to be caused, but, the present case is the one under Section 304-A IPC. This proposition is, however, disputed by the learned Senior Counsel appearing on behalf of the petitioners.

7. Let status report be filed before the next date of hearing.
8. Renotify on 22.04.2025.
9. In the meanwhile, the trial court is requested to defer the proceedings to a date after the next date fixed before this Court.
10. The parties are at liberty to file a short notes of their submissions along with the judgment(s) they seek to rely upon, before the next date.

**VIKAS MAHAJAN, J**

**JANUARY 7, 2025**  
**‘rs’**