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

+ **CRL.M.C. 9042/2024 & CRL.M.A. 34650/2024**

DR PRABIR MAJHI

.....Petitioner

Through: Mr. Vishwajit Singh, Sr. Advocate
with Mr.Niranjan Sahu, Mr. Pankaj
Singh and Mr. Suryansh Singh,
Advocates.

versus

STATE OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Hitesh Vali, APP for the State
with SI Rajeev Kumar, P.S. Hauz
Khas.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **26.11.2024**

CRL.M.A. 34651/2024 (exemption from filing lengthy list of dates)

CRL.M.A. 34652/2024 (exemption from filing certified copies)

Exemptions granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The applications stand disposed-of.

CRL.M.A. 34653/2024 (for condonation of delay)

By way of the present application, the petitioner seeks
condonation of 'blank' days' delay in *re-filing* the petition.

2. For the reasons stated in the application, which is duly supported by
an affidavit, the application is allowed.
3. Delay in *re-filing* the petition, if any, is condoned.
4. The petition is taken on Board.
5. The application stands disposed-of.



CRL.M.C. 9042/2024

6. By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks quashing of case FIR No.274/2019 dated 05.10.2019 registered under sections 498-A/406/34 of the Indian Penal Code, 1860 at P.S.: Hauz Khas, New Delhi.
7. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain but meaningful reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or made*" in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. "*any appeal, application, trial, inquiry or investigation*", were already ***pending*** immediately before the date on which the BNSS came into force, i.e., 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings; and to therefore not change the governing law during the pendency of such proceedings.
8. Since the present petition is a fresh proceeding and has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 528 of the BNSS.
9. It may be observed however, that any objection that may be raised in the above regard, is kept open to be decided subsequently.



10. After hearing Mr. Vishwajit Singh, learned senior counsel appearing for the petitioner, and especially considering the fact that both the contesting parties in the case are highly qualified medical doctors, this court is of the view that an attempt at mediation would be the correct course of action in the case.
11. Mr. Singh submits, that in an earlier round of mediation, respondent No.2 had not participated with any seriousness.
12. In the circumstances, without issuing notice on the petition, let a copy of this order be communicated by the Registry to respondent No.2 to remain present in court (either in-person or *via* video-conferencing) or be represented on the next date, to explore the possibility of an amicable mediated settlement.
13. For the above purpose, re-notify on 19th December 2024.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 26, 2024

V.Rawat