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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4892/2015
LIPIKA MITRA

..... Petitioner

Through: Mr. Rahul Kumar, Advocate
versus

STATE & ANR

..... Respondent

Through: Mr. Shailendra Babbar, Special
Public Prosecutor for the State with
Ms. Karuna Chhatwal, Advocate
Mr. Rajat Katyal, Additional Public
Prosecutor for the State.
Mr. Neeraj Kumar Jha, Advocate for
respondent No. 2

CORAM:

HON'BLE MR. JUSTICE P.S. TEJI

ORDER

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04.05.2016

By this petition filed under Article 227 of the Constitution of India, the petitioner is seeking setting aside the order dated 07.10.2015 passed by the learned Additional Sessions Judge – 03 (SW), Dwarka Courts, New Delhi for cancellation of bail granted to respondent No. 2 in FIR No. 745/2015 under Section 307/313/324/498-A/406/417/420/506/511/34 of IPC at Police Station Dwarka North.

The matter first came up for hearing before this Court on 01.12.2015; Mr. Shailendra Babbar, claimed himself to have been appointed as Special Public Prosecutor in this case by the Delhi Police/Government of NCT of Delhi and caused his appearance alongwith Mr. Panna Lal Sharma, Additional Public Prosecutor for

the State. The notice of the petition was accepted by him and he sought time to file reply. Simultaneously, notice was also directed to be issued to respondent No. 2 for 16.02.2016.

On the next date of hearing, Mr. Rajat Katyal, Additional Public Prosecutor alongwith Inspector K. Sagar, DIU/SW Distt had caused his appearance on behalf of the State and the matter was adjourned to 01.04.2016. Again on the next date, i.e. on 01.04.2016, Mr. Shailendra Babbar, Special Public Prosecutor alongwith Mr. Rajat Katyal, Additional Public Prosecutor had caused his appearance on behalf of the State and the matter was adjourned for today.

Today again, the drama is being watched in this Court wherein two Advocates are claiming themselves to be the Special Public Prosecutor and the Public Prosecutor representing the State. This Court observes that it is becoming a routine in other cases where two Advocates appear wherein one is claiming to be Special Public Prosecutor and the other is claiming to be the Additional Public Prosecutor for the State.

In the considered opinion of this Court, this is not in the interest of criminal justice or in the State to have such scenario to be watched in the Court as well as by the public. It is apparent that there are few matters, in which such conflict is seen. Earlier also, in one case both the parties were asked to file their respective replies.

Undisputedly, respondent No. 2 was granted bail during investigation of the case. But this Court is of the view that in such a scenario it should be left with the Investigating Officer to have its representative, as the Prosecution and the investigation cannot have a

difference of opinion.

This system of representing the State by two Public Prosecutors has itself affected the judicial process, wherein one advocate claims himself to be representing the State and the other claims to be representing the Police.

In the aforesaid scenario, it is once again directed to all the three persons, i.e., Mr. Shailendra Babbar, Special Public Prosecutor, Rajat Katyal, Additional Public Prosecutor for the State, and respondent No. 2 to file their respective replies to the petition within a period of one week, so that at least the status of the investigation is clear to everybody.

In view of the aforesaid, the matter is adjourned to 17th May 2016.

In the meanwhile, respondent No. 2 may also file reply to the present petition within a period of one week, so that the matter can be heard on the next date.

P.S.TEJI, J

MAY 04, 2016
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