Centre For Holistic Development Vs. National Buildings Construction Corporation Ltd.

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting) Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present:

Sh. Shiven Verma, Ld. Counsel for complainant.

Fresh complaint received by way of assignment. It be checked and registered as per rules.

Heard. Record perused.

Counsel for complainant submits that the present complaint is filed by the complainant which a registered NGO, on behalf of 12 displaced families whose houses were destroyed on 19.07.2020 due to caving in of drain caused by the construction site of Wold Health Organization. Allegedly, the basement was being constructed for WHO building by illegal and improper excavation, which led to the blocking the adjacent drain, thereby causing the flooding and destruction of the houses of displaced families.

Counsel for applicant further submits that the improper and unlawful management of construction site has resulted in water logging which has caused alleged destruction. Counsel for complainant further submits that the proposed accused persons are liable for offences u/s 425/431/432/268/288/290/34 IPC and section 397/450/451/465/466/461/95 of Delhi Muncipal Corporation Act. It is further submitted that despite complaints made to SHO/PS I.P. Estate and to DCP concerned, no action has been taken till date. Hence, the present application.

In view of the aforesaid submissions, SHO/ACP/DCP concerned are directed to file an Action Taken Report specifying the following:-

- Whether any complaint has been filed by the complainant before the police? 1.
- If, any complaint has been filed, what action has been taken by the police on 2. same?
- Whether any inquiry was conducted on the complaint given by the 3. complainant?
- Whether commission of any cognizable offence was found during the 4.

inquiry?

If, commission of any cognizable offence was found, whether any FIR has 5.

been registered by the police?

Let ATR be filed on 29.09.2020.

FIR No. 190/20 State Vs. Manoj PS Rajender Nagar

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of

Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present:

Ld. APP for the State.

Sh. Vabhav Nautiyal, Ld. Counsel for applicant.

IO/ASI Daryao Singh in person

The present urgent application was filed on behalf of the applicant on email id of this court.

Scanned copy of reply of under the signatures of IO/ASI Daryao Singh, is received through email id of the court. Copy of same is already supplied to counsel of applicant/accused, through email.

This order shall dispose off the application for grant of bail u/s 437 Cr.PC, moved on behalf of applicant/accused Manoj.

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is a further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. With these averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

In the present case, the applicant was arrested for the offences u/s 454/380/411 IPC. As per reply filed by IO/ASI Daryao Singh, the recovery of allegedly stolen property i.e. 5 ACs, 5 Ceiling Fans, 1 Oven and a small refrigerator, has already been effected, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected in the present case, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution witnesses. Further, the trial of the case would take a long time and till

29/08/2020.

then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court In Sanjay Chandra versus CBI (2012) ISCC 40, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Manoj is hereby ordered to be enlarged on bail, subject to following conditions;

1. That the applicant shall furnish personal and surety bonds in the sum of sum of Rs.20,000/- each, to the satisfaction of Ld. Duty MM (on court duty).

29/08/2020.

That the applicant shall make himself available as and when required to do so by the investigating agency or the police;

That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him from disclosing any facts to the court or the police;

That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and

That the applicant shall not deliberately and intentionally act in a manner

which may tend to delay the investigation and trial of the case.

That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi

District Court Website.

FIR No. 190/20 State Vs. Vishal PS Rajender Nagar

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of

Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present:

Ld. APP for the State.

Sh. S.K. Sharma, Ld. Counsel for applicant.

IO/ASI Daryao Singh in person

The present urgent application was filed on behalf of the applicant on email id of this court.

Scanned copy of reply of under the signatures of IO/ASI Daryao Singh, is received through email id of the court. Copy of same is already supplied to counsel of applicant/accused, through email.

This order shall dispose off the application for grant of bail u/s 437 Cr.PC, moved on behalf of applicant/accused Vishal.

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is a further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. With these averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

In the present case, the applicant was arrested for the offences u/s 454/380/411 IPC. As per reply filed by IO/ASI Daryao Singh, the recovery of allegedly stolen property i.e. 5 ACs, 5 Ceiling Fans, 1 Oven and a small refrigerator, has already been effected, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected in the present case, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution witnesses. Further, the trial of the case would take a long time and till

July 2020.

then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further surtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court In Sanjay Chandra versus CBI (2012) 1SCC 40, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great nardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Vishal is hereby ordered to be enlarged on bail, subject to following conditions;

1. That the applicant shall furnish personal and surety bonds in the sum of sum of Rs.20,000/- each, to the satisfaction of Ld. Duty MM (on court duty).

That the applicant shall make himself available as and when required to do

so by the investigating agency or the police;

That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to elissuade him from disclosing any facts to the court or the police;

That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and

That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.

That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi

District Court Website.

FIR No. 200/17 State Vs. Mohd. Ashad PS I.P. Estate

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting) Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present:

Ld. APP for the State.

Sh. Sachin Kumar Jain, Ld. LAC for applicant.

IO/HC Ashutosh in person

The present urgent application was filed on behalf of the applicant on email id of this court.

Scanned copy of reply of under the signatures of IO/HC Ashutosh is received. Copy of same is already supplied to counsel of applicant/accused, through email.

This order shall dispose off the application for grant of regular bail u/s 439 Cr.PC, moved on behalf of applicant/accused Mohd. Ashad.

Ld. LAC for applicant submits that inadvertently instead of section 437 Cr.P.C., section 439 Cr.P.C. has been mentioned in head note of the application and same may be adjudicated in terms of provisions of section 437 Cr.P.C.

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is a further averred that the applicant was granted bail in the present case but he was arrested again due to his default in appearing before the Court on account of wrong noting of the date of hearing. It is averred that applicant is a sole bread earner of his family and having two minor daughters to lookafter. With these averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application stating that the accused deserves no leniency as he has already absconded from the process of law and if enlarged on bail, his presence cannot be secured during the course of the trial of case.

The perusal of the main case file would reveal that the applicant was granted bail on 17.07.2020 keeping in view the bailable nature of the offence. However, the applicant did not appear before the Court despite issuance of several processes against him after filing the charge sheet and was hence, declared an

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absconder vide order dt. 25.09.2020. The record further reveals that the applicant/accused was arrested on 25.11.2019 and was sent to JC. As per record, the charges have already been framed against accused on 02.03.2020. At this juncture, it is pertinent to mention that the purpose of issuing proclamation u/s 82 Cr.P.C., against accused was not punitive but to secure his attendance. Further, the charge sheet has already been filed in the present case and the charges are also framed. The trial of the case will take a considerable time. Admittedly, applicant/accused is undergoing detention in judicial custody since 25.11.2019. It is not the case of prosecution that if admitted on bail, the accused will tamper with any evidence or will dissuade any of the prosecution witnesses. The sole objection of prosecution only revolves around the apprehension qua possibility of abscondance of accused, in case he is released on bail. This objection, however, appears to be untenable as the presence of accused during the course of trial of case can be secured by taking solvent sureties undertaking his presence before the Court. In such circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

Before parting with this order, it is also pertinent to cite the observations made by the Hon'ble apex court In Sanjay Chandra versus CBI (2012) ISCC 40, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and that it would be improper for any court to refuse bail as a

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mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Mohd. Ashad is hereby ordered to be enlarged on bail, subject to following conditions;

- 1 That the applicant shall furnish personal and surety bonds in the sum of sum of Rs.10,000/-, to the satisfaction of Ld. Duty MM (on court duty).
- 2 That the applicant shall make himself available as and when required to do so by the investigating agency or the police;
- 3 That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
- 4 That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and
- 5 That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
- 6 That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.

FIR No. 190/20 State Vs. Dileep PS Rajender Nagar

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of

Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present:

Ld. APP for the State.

Sh.Deepak Ghai, Ld. Counsel for applicant.

IO/ASI Daryao Singh in person

The present urgent application was filed on behalf of the applicant on email id of this court.

Scanned copy of reply of under the signatures of IO/ASI Daryao Singh, is received through email id of the court. Copy of same is already supplied to counsel of applicant/accused, through email.

This order shall dispose off the application for grant of bail u/s 437 Cr.PC, moved on behalf of applicant/accused Dileep.

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is a further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. With these averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

In the present case, the applicant was arrested for the offences u/s 454/380/411 IPC. As per reply filed by IO/ASI Daryao Singh, the recovery of allegedly stolen property i.e. 5 ACs, 5 Ceiling Fans, 1 Oven and a small refrigerator, has already been effected, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected in the present case, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the brosecution witnesses. Further, the trial of the case would take a long time and till

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then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court In Sanjay Chandra versus CBI (2012) ISCC 40, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed hat in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and that it would be improper for any court to refuse bail as a nark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Dileep is hereby ordered to be enlarged on bail, subject to following conditions;

1. That the applicant shall furnish personal and surety bonds in the sum of sum of Rs.20,000/- each, to the satisfaction of Ld. Duty MM (on court duty).

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That the applicant shall make himself available as and when required to do ne investigating agency or the police.

That the applicant shall not directly or indirectly make any inducement, or promise to any person acquainted and the case so as to so by the investigating agency or the police; threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the

dissuade him from disclosing any facts to the court or the police;

That the applicant shall not tamper with the prosecution evidence nor he to win over the prosecution witnesses. will try to win over the prosecution witnesses or terrorize them in any manner; and

That the applicant shall not deliberate.

That the applicant shall not deliberately and intentionally act in a manner

which may tend to delay the investigation and trial of the case.

That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at <u>daksection.tihar@gov.in</u>, for necessary information

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi

District Court Website.

Ct. Cases 11759/2019 ANAND KUMAR Vs. RAKESH MANI TRIPATHI

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of

Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Complainant Mr. Anand Kumar with Sh. Vipul Shukla, Ld. Proxy counsel.

Pursuant to the previous directions, complainant Anand Kumar is present through VC. Upon query made by the Court regarding the correct name of the complainant, he states that his correct name is Anand Kumar and his adhar card bears is complete name alongwith his surname.

Complainant further submits that he has entered into an amicable settlement with the proposed accused persons and does not wish to continue the present proceedings. Counsel for complainant further submits that the present complaint may be dismissed as withdrawn.

Complainant has already sent the scanned copy of his statement regarding withdrawal of present complaint in view of amicable settlement arrived with proposed accused persons, through email.

The complainant has also sent scanned copy of her adhar card, for the purposes of her identity.

In view of the aforesaid statement given by the complainant, since, it emerges that he has amicably arrived at settlement with proposed accused persons and does not wish to continue the present proceedings any further, therefore, continuing present proceedings would be an exercise of futility. In such circumstances, the present complaint stands dismissed as withdrawn. Pending application, if any also stands dismissed as infrutuous.

The scanned copy of statement sent by complainant through email be tagged in the case file. The complainant is also directed to submit in Court his statement in original, within 15 days of re-opening of the Courts.

29/20/2020

Stands disposed off.

Case file be consigned to record room upon receipt of statement of complainant in original.

Concerned Ahlmad to do needful.

(RISHABH-KAPOOR) MM-03(Central),THC,Delhi

29.08.2020

Ct. Cases 7823/2019 RASHMI MEHTA Vs. SUN WORLD CITY (P) LTD

29.08.2020

(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present:

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Husband of complainant with Sh. Roshan Lal Saini, Ld. Counsel.

IO/SI Ali Akram in person.

Pursuant to directions, issued on 06.08.2020, ATR under the signatures of SI Ali Akram is received through email. Same is perused.

It is reported by inquiry officer/SI Ali Akram that the application for seeking approval from DCP, Central for registration of case FIR was moved by the inquiry officer, however, DCP Central had directed to make further inquiry on some point. It is further reported that during the course of inquiry, the complainant informed that she was reimbursed the amount by the alleged company and shown her intention of not pursuing the matter any more. Inquiry Officer has also sent the scanned copy of statement of complainant addressed to SHO PS Rajender Nagar qua withdrawal of her complainant.

Upon specific query made by the Court, inquiry officer SI Ali Akram submits that no case FIR has been registered pursuant to the complaint given by the complainant.

At this stage, counsel for complainant submits that complainant Ms. Rashmi Mehta has arrived at an amicable settlement with the proposed accused persons and does not wish to continue the present proceedings. Counsel for complainant further submits that the present complaint may be dismissed as withdrawn.

Complainant has sent the scanned copy of her statement regarding withdrawal of present complaint in view of amicable settlement arrived with proposed accused persons, through email.

The complainant has also sent scanned copy of her adhar card, for the purposes of her identity.

In view of the aforesaid statement given by the complainant, since, it emerges that she has amicably arrived at settlement with proposed accused persons

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and does not wish to continue the present proceedings any further, therefore, continuing present proceedings would be an exercise of futility. In such circumstances, the present complaint stands dismissed as withdrawn. Pending application, if any also stands dismissed as infrutuous.

The scanned copy of statement sent by complainant through email be tagged in the case file. The complainant is also directed to submit in Court her statement in original, within seven days of re-opening of the Courts.

Stands disposed off.

Case file be consigned to record room upon receipt of statement of complainant in original.

Concerned Ahlmad to do needful.