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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3785/2015

I.B SINGH AND ASHA KUMARI

..... Petitioner
Represented by: Mr. Aditya Aggarwal and
Mr. Rahul Kumar,
Advocates.

Versus

STATE GOVT OF NCT OF DELHI

..... Respondent
Represented by: Mr. Kamal Kr. Ghei,
Additional Public Prosecutor
for the State with
SI Sandeep P.S. Vasant Kunj
(North).

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

ORDER

14.09.2015

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Crl. M.A.Nos. 13390-91/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the applications are allowed.

CRL.M.C. 3785/2015

1. Vide the present petition, the petitioners seek directions thereby seeking setting aside of the order dated 04.09.2015 passed by the Revisional Court in Criminal Revision No.43/2015 and order dated 31.08.2015 passed by the learned Metropolitan Magistrate in case bearing FIR No.212/2012 registered at Police Station Vasant Kunt, for the offences punishable under Sections 498-A/406/34 IPC.

2. It is not in dispute that the petitioners have earlier moved an application seeking exemption from personal appearance. The same was not allowed and thereafter due to some confusion on account of strikes of lawyers in the District Courts, the petitioners could not appear on 03.06.2015 and so was the position on 31.08.2015. Therefore, the learned Trial Court passed the order dated 31.08.2015 and ordered for issuance of Non-Bailable Warrants (NBWs) against the petitioners.
3. Perusal of the order dated 31.08.2015 shows that the learned Trial Court has recorded that vide order dated 04.08.2015, NBWs were stayed till the next date of hearing, i.e., 31.08.2015. Since, the petitioners did not appear on that date, therefore, the learned Trial Court has no option but to issue NBWs against them.
4. Be that as it may, learned counsel appearing on behalf of the petitioners submits that the petitioner No. 1 is suffering from prostate cancer and the petitioner No. 2 is getting treatment for her broken spine. He submits that for the aforesaid reasons, both the petitioners have already moved an application on 22.07.2015 for permanent personal exemption from appearance, however, the said application is still pending.
5. Keeping in view the averments made in the instant application and the submissions made by learned counsel for the petitioners, I hereby set aside both the orders passed by the Courts below and direct the learned Trial Court to decide the application of the petitioners seeking permanent exemption from personal appearance on medical grounds.
6. I hereby make it clear that till the Trial Court decides the said application, the petitioners shall remain exempted from appearing personally.

7. In view of the above, the present petition is disposed of.
8. The Registry of this Court is directed to send a copy of this order to the concerned Trial Court for information.
9. A copy of this order be given *dasti* to the learned counsel for the parties under the signature of the Court Master.

Crl. M.A.No. 13389/2015 (for stay)

With the disposal of the petition noted above, the instant application has become *infructuous*. The same is dismissed accordingly.

SEPTEMBER 14, 2015
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SURESH KAIT, J.