

State Through Rpf vs Dharmendra @ Dharma on 26 September, 2024

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.L.P. 472/2024

STATE THROUGH RPF

Through:

versus

DHARMENDRA @ DHARMA

Through:

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% 26.09.2024

1. The present application/petition has been filed under Section 482 of Code of Criminal Procedure, 1973. When this Court posed a query regarding the filing of instant case under the erstwhile procedural code, the learned counsel apprised this Court that the same practice has been adopted by the judges in the District Courts and therefore, he was under the impression that the same needs to be done in this Court as well.

2. During the course of proceedings for last two days, it has come to the notice of this Court that despite implementation of the new laws i.e. Bhartiya Nyaya Sanhita, 2023 (BNS), Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) and Bhartiya Sakshya Adhiniyam, 2023 (BSA) the advocates are relying upon the provisions of the old Criminal laws to file new applications/petitions and also while assisting the Court.

3. This Court has taken serious view to the same as the reliance upon the old criminal laws despite introduction and implementation of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/09/2024 at 01:28:24 new laws is a clear violation of the intent of the Parliament and defeats the efforts made for its effective implementation. Since the new laws have already been implemented w.e.f 1st July, 2024 and published in the Gazette notification by the Union of India, the applications filed after 1st July, 2024 cannot be adjudicated by any Court under the old laws as the same are not in effect anymore.

4. In Prince v. State of Govt of NCT Delhi and ors. 2024 SCC OnLine Del 4909, the co-ordinate Bench of this Court shared the same sentiment and held as under:

4. Though the present petition has been filed under the provisions of the Code of Criminal Procedure 1973 („Cr.P.C.), in the opinion of this court, on a plain reading of section 531(2)(a) of the BharatiyaNagarik 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... ..", was pending immediately before the date on which the BNSS came into force, i.e. 01.07.2024.

5. In the circumstances, since the present petition 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 482 read with 528 of the BNSS"

5. A similar view has also been taken by the various other High Courts of the country and this Court is of the view that it is appropriate for the advocates to contribute towards effective implementation of the newly introduced criminal laws.

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6. Therefore, the registry is directed to ensure that the new applications/petitions are filed under the new laws only. It is made clear that if any proceeding is in continuance in the cases filed before 1st July, 2024, it would be appropriate to refer to old provisions along with the provisions in the new laws to ensure smooth transition later on.

7. In view thereof, the Registrar General, High Court of Delhi is directed to send the above said directions to all the District Courts, Police Stations and other concerned authorities within the jurisdiction of the National Capital Region.

8. Pursuant to the above said observations, the learned counsel for the petitioner prayed for a weeks' time to amend the petition according to the new criminal laws. Let him do so within a week as prayed.

9. List on 16th October, 2024.

CHANDRA DHARI SINGH, J SEPTEMBER 26, 2024 NA/AV Click here to check corrigendum, if any This is a digitally signed order.

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