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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1948/2021**

SMT KHALIDA Petitioner

Through : Ms.Rebecca M John, Sr Advocate
with Mr.Fuzail Ahmad Ayyubi,
Ms.Megha Bahl, Ms.Akanksha Rai,
Mr. Ibad Mushtaq,Ms. Adya Rajkotia,
and Mr. Pravir Singh, Advocates.

versus

STATE & ORS. Respondents

Through : Mr.Amit Ahlawat, APP for the State.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **23.08.2021**

1. The hearing has been conducted through Video Conferencing.

Crl.M.A.No.13209-13210/2021

2. Exemption allowed, subject to all just exceptions.

3. The application/s stand disposed of.

CRL.M.C. 1948/2021 & Crl.M.A.No.13208/2021

4. The petitioner is senior citizen aged about 72 years and was residing at premises No.168, Basti Hazarat Nizamuddin, Delhi along with her family members, eleven in number, the detail of which is mentioned in the impugned order dated 11.09.2020 passed by the learned Trial Court.

5. The learned senior counsel for the petitioner submits after registration of FIR No.63/2020 dated 31.03.2020, the entire *markaz* premises was vacated and sealed for the purpose of sanitization and disinfection by the authorities and the keys of the premises were handed over to the police. The premises consists of residential premises built up into four story and divided into two portions by wall and in the residential portion, the petitioner and

her family resided and entry to both the sections is separate and is not inter connected. There is a separate gate for the entry in the residential portion.

6. It is submitted since the date of registration of the FIR, the family members of the petitioner are not allowed to enter the residential portion. The repeated prayers have been made to the Investigating Officer, the Commissioner of Police, Deputy Commissioner of Police and Special Commissioner of Police, but the keys of residential portion are being not handed over to her, hence, she moved an application before the learned Trial Court praying the keys of residential premises be handed over to her and the petitioner along with her family members be allowed to enter and reside therein.

7. Upon hearing arguments on said application of the petitioner, the learned Trial Court inter alia noted as under:

12. In view of the aforesaid facts and discussions, only the residential portion of premises of applicant be unlocked after 5 days from the receipt of this order, so that the Investigating Agencies can inspect the premises. Further, Applicant and her family members are directed to give an undertaking on an Affidavit that they shall not obstruct the investigation in any manner and the residential portion of the property shall only be used for residing by its residents only and they shall not enter into any part other of the Markaz and its premises for any other purpose.

8. The State being not satisfied filed Criminal Revision No.203/2020 wherein learned Additional Session's Judge, Saket Courts, New Delhi passed the impugned order dated 14.12.2020. Learned Session's Court allowed the revision on the premise of Section 310 Cr P C and Section 60 of the Indian Evidence Act.

9. I have heard the arguments advanced by the learned senior counsel

for the petitioner and learned APP for the State.

10. The learned senior counsel argues Section 60 of the Indian Evidence Act is not applicable to the facts of the case and secondly if a local inspection *per* Section 310 Cr P C is to be done, the same can be done by putting the petitioner to a reasonable notice and for this purpose to keep her residential premises locked is highly unreasonable.

11. Admittedly, learned CMM has noted the State has failed to produce or file any order or provision of law by which the residential premises in question is locked despite directions given by the learned CMM and even the SDM, Defence Colony had filed a reply before the learned CMM wherein it was stated they have never issued any direction for sealing of the said premises and they had only requested the DCP Crime to take appropriate legal action in this case.

12. Admittedly, there is no order of sealing or seizure of the premises but since 01.04.2020 the residential premises of the petitioner is lying locked and she is staying outside.

13. In the circumstances, it would be appropriate to issue notice to the State and call for the status report stating inter alia, as to if any order or notices was ever issued by any authorities for sealing the residential portion, and in the meanwhile, the keys of the premises be handed to the petitioner within *two* days from today subject to filing undertakings / affidavits per order dated 11.09.2020 (*supra*) of the learned CMM.

14. As sought, status report be filed before the next date of hearing with an advance copy thereof to the learned counsel for petitioner through email.

15. List again on 09.12.2021.

16. Copy of this order be communicated electronically to the learned

Trial Court/Investigating Officer for information and compliance.

YOGESH KHANNA, J.

AUGUST 23, 2021

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