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**(2011) 11 DEL CK 0029**  
**In the Delhi High Court**  
**Case No : Criminal M.C. 3015 of 2011**

Fazlur Rehman

APPELLANT

Vs

State NCT of Delhi

RESPONDENT

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**Date of Decision :** 15-11-2011

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 120B, 387, 506

**Citation :** (2011) 11 DEL CK 0029

**Hon'ble Judges :** Suresh Kait, J

**Bench :** Single Bench

**Advocate :** Rakhi Dubey, for the Appellant; Rajdipa Behura, Ld. APP for State, for the Respondent

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## Judgement

Suresh Kait, J.—Vide order dated 20.09.2011, following order was passed:

1. Ms. Rakhi Dubey, Advocate is present in the Court. On request, she has agreed to assist the court. Therefore, I appoint her as amicus in this case.
2. Ld. counsel for the petitioner submits that the Registrar of this Court had received the instant petition on 27.08.2011 in the form of a letter from jail. The same was placed before a Committee on PIL, the said Committee vide its communication dated 05.09.2011 was of the opinion that, the present letter/petition be listed on the judicial side, this cannot be treated as a PIL. Hence, the petition before this Court.
3. Ld. counsel for the petitioner further submits that vide this petition the petitioner has prayed for the direction to the Court of Sh. Vinod Yadav, CMM, Tis Hazari Court, Delhi in the case titled as State vs. Shalini Jayothi & Ors. (including the petitioner Fazlur Rehman) in case FIR No.94/2003 u/s 387, 506, 120B Indian Penal Code, 1860 of PS Special Cell, New Delhi for expediting the disposal of the aforesaid case, wherein the case is pending since 2003 and was fixed for prosecution evidence for 16.09.2011.
4. Ld. counsel for the petitioner further submits that Vide this petition the

petitioner has submitted that the complainant Nivedan Bhardwaj R/o 4/2, Shanti Niketan, New Delhi lodged a complaint with police station, Special Cell, with the allegation that on 14.11.2003. He received a call on his mobile No.9811355500 from a underworld gangster, namely, Fazlur Rehman from mobile No.971507703816 demanding the ransom of ₹ 50,00,000/- and directing him to arrange the same upto 18th November, 2003.

5. Ld. counsel for the petitioner further submits that on the basis of the above stated allegation the aforesaid case was registered. During the investigation it was found that the petitioner gave his alleged mobile number to complainant Nivedan Bhardwaj to contact him on the mobile No.9810820800 belonging to Shalini Jayothi, who is the co-accused in the present case. After her arrest in the year 2004, the present petitioner was arrested in the present case on 29.08.2006 and since then petitioner is in judicial custody. After the framing of charge on 22.03.2007, the matter was adjourned for recording of evidence for 19.04.2007, since then the several opportunities have been granted to the prosecution to conclude the evidence, however, the prosecution failed to do so.

6. Ld. APP for State submits that in these circumstances, she needs one week's time to verify the details and stage of the case.

7. Further submits that as it is mentioned in sub-para 1 at page 6 of the petition, the co-accused earlier moved a Crl.M.C. before this Court for expeditious trial of the case. This Court directed the trial court to conclude the prosecution evidence upto December, 2010.

8. Ld. APP for State further submits that from the petition it is not clear by which Crl.M.C. of 2010, a case was filed and by which order of this Court had the direction been passed in the matter. Therefore, only after verification would she be able to assist the Court.

9. In these circumstances, the trial court is directed to file the status report before the next date of hearing as to why has this matter has not been concluded; in spite of petitioner being behind the bars for the last 05 years, whereas, the maximum sentence u/s 387 of Indian Penal Code, is for 07 years.

10. Renotify on 17th November, 2011.

2. Sh. Vinod Yadav, Chief Metropolitan Magistrate, Tis Hazari Court, Delhi has filed the Status Report wherein, it is stated that there are two accused persons in the present case namely Shalini Jyoti and Fazlur Rehman. Accused Fazlur Rehman is a co-accused in seven other cases of Special Cell, which are pending vide FIR no. 578/99, PS-Kotwali, Kanpur, UP. Case FIR no. 125/2003, PS-Alambagh, Lucknow, UP and CR no. 207/2005, PS-MPC, Kalyaan, Maharashtra. Accordingly the trial court kept on receiving Production Warrants from other states for his production for the cases pending there.

3. Further it is submitted the presence of the main prosecution witness i.e. complainant Shri Nivedan Bhardwaj could be secured for evidence only

20.11.2010. His evidence in the matter has been going on. This witness most of the times remains out of Delhi in relation to his business assignments. This court took up the matter on urgency basis and fixed up three dates for trial i.e. 06.12.2010, 07.12.2010 and 08.12.2010 and it was directed that IO and ACP, Special Cell would make every endeavour to serve summons upon the remaining witnesses by making sincere efforts.

4. I note from the status report that for some time, Ld. ACMM could not take up the matter on account of other administrative functions. Some dates were given on account of pre-occupation in hearing arguments in "Bofor"s" case.

5. Ld. ACMM has assured that he will put all his endeavour to conclude the trial within 6 months.

6. With this hope, I dispose of the petition as satisfied.