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IN THE HIGH COURT OF DELHI AT NEW DELHI

(R.S. Sodhi and P.K. Bhasin, JJ.)

State _____ Appellant(s)

v.

Sidhartha Vashisht @ Manu Sharma _____ Respondent(s).

Criminal Appeal No. 193 of 2006, decided on December 20, 2006

COURT ON ITS OWN MOTION

Today we have disposed of Crl. A. No. 193/2006 (State v. Siddharth Vashisht @ Manu Sharma etc.) which was filed by the State against the judgment dated 21-02-96 passed by learned Additional Sessions Judge, New Delhi in SC No. 45/2000 whereby all the accused tried of different offences including that of murder and causing of disappearance of evidence of the crime were acquitted. Vide our judgment dated 18-12-2006 we have reversed the acquittal of accused Siddharth Vashisht @ Manu Sharma, who was tried for the commission of offences punishable under Sections 302 IPC, 201/120-B IPC and Section 27 of the Arms Act. He has been held guilty in appeal for all these offences. The acquittal of accused Amardeep Singh Gill @ Tony Gill and Vikas Yadav, both of whom along with Siddharth Vashisht @ Manu Sharma were tried under Section 201/120-B IPC has also been set aside by us and they stand convicted for this offence. They have been appropriately sentenced vide our separate order passed today in the appeal. While hearing the appeal we had the occasion to examine the trial Court proceedings. The prosecution in support of its case had examined 101 witnesses in all which included eye witnesses of the murder of Jessica Lal. To our utter surprise we found that during the trial as many as 32 witnesses including three eye witnesses of the murder and one ballistic expert had to be got declared hostile by the prosecution. That is definitely a sad state of affairs. Witnesses turning hostile appears to be the order of the day. The Courts must put an end to this kind of attitude of witnesses turning hostile in order to thwart the course of justice. In the facts and circumstances of the

present case we are of the view that it is expedient in the interest of justice to take recourse to Section 340 of the Code of Criminal Procedure, which this Court as an Appellate Court can do in exercise of the powers under Section 340(2) Cr.P.C since the trial Court has chosen not to invoke this provision of law despite taking note of the fact that a large number of witnesses had turned hostile. We, therefore, direct that a show cause notice be issued to the following witnesses who had appeared during the trial and had turned hostile to show cause as to why action be not taken against them as per the provisions of Section 340 Cr.P.C.:

1. PW-2 Shyan Munshi
2. PW-3 Shiv Das Yadav
3. PW-4 Karan Rajput
4. PW-5 Parikshat Sagar
5. PW-19 Andleep Sehgal
6. PW-25 Manoj Kumar
7. PW-26 Balbir Singh
8. PW-31 Narain
9. PW-34 Tarsem Lal Thhapar
10. PW-35 Birbal
11. PW-44 Shankar Mukhia
12. PW-50 Harpal Singh
13. PW-52 Chander Parkash Chabra
14. PW-53 Abhijeet Ghosal
15. PW-54 Varun Shah
16. PW-55 Mukesh Saini
17. PW-56 Chetan Nanda
18. PW-57 Ashok Dutt
19. PW-60 Baldev Singh
20. PW-61 Ishdeep Sharma
21. PW-62 Ali Mohammad
22. PW-64 Ravinder Singh Gill
23. PW-65 Kulvinder Singh
24. PW-67 Niranjan Ram
25. PW-68 Mangal Singh
26. PW-69 Rakesh Kumar Atri
27. PW-71 Harminder Singh
28. PW-72 Lal Singh
29. PW-77 Gajender Singh
30. PW-87 Jagan Nath Jha
31. PW-95 Prem Sagar Manocha
32. PW-98 Babu Lal

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The show cause notices be served on these witnesses through the SHO concerned who will ensure that they are served before the next date of hearing. These persons are required to be present in court in person on the next date of hearing. List on 1st February, 2007.