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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 242/2015 and CrI.M.A.935/2015

SHAILESH VORA & ORS

..... Petitioners

Through: Mr. Jay Savla, Advocate with
Mr. Prabhat Chaurasia & Mr. Rajpal
Singh, Advocate

versus

VIRENDER KUMAR GUPTA

..... Respondent

Through: Mr. Jai Sahai Endlaw, Advocate for
R-1 along with R1 in person

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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20.07.2018

Though the present petition invoking inherent jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) prays for the proceedings arising out of criminal complaint case (Complaint No.115/1/2014) and order dated 30.08.2014 to be quashed on merits, this court finds the said order dated 30.08.2014, whereby the petitioners have been summoned in the context of the said criminal complaint case presented by the respondent herein to be not a proper order, vis-a-vis the jurisdiction exercised under Section 204 Cr.P.C.

The complaint of the respondent alleged offences punishable under Sections 386/420/467/468/471/506 read with Section 34 and 120-B of the Indian Penal Code, 1860 (IPC). The complainant had led evidence in the pre-summoning inquiry presumably under Section 200/202 Cr.P.C. The summoning order, however, is conspicuously silent as to the offence(s) for

which the Magistrate found the grounds to proceed against the petitioners leading to the issuance of process against them under Section 204 Cr.P.C.

In above view, the learned counsel for the complainant fairly concedes that the impugned order cannot be upheld. He, however, submitted that while the petition may be allowed setting aside the said order dated 30.08.2014, his complaint be not trashed and instead he be given an opportunity to make fresh submissions before the court of Magistrate on the basis of pre-summoning evidence and request for proper order in accordance with law to be passed thereupon.

The petition is, thus, allowed.

The impugned order dated 30.08.2014 is hereby set aside. The Metropolitan Magistrate shall hear the complainant and on the basis and upon consideration of the pre-summoning evidence already led, with further evidence, if any, that may be offered, shall pass a fresh order thereupon.

The petition and the application stand disposed of with these observations.

Dasti.

JULY 20, 2018

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R.K.GAUBA, J.