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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4355/2016 & CrI. M A No. 18186/2016
ANAND VARDHAN SHARMA & ANR. Petitioners
Through: Mr. V K Vasdev, Advocate
versus
AJAY KUMAR SHARMA Respondent
Through: Mr. Apurb Lal, Advocate with Ms.
Meenu Pandey, Advocate
Along with respondent in person.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **29.08.2018**

The respondent-Ajay Kumar Sharma had filed a criminal complaint case on 15.03.2016, it having been registered CC No. 4/2013, *inter alia*, alleging the petitioners having committed offences punishable under sections 420/467/468/471/474/120B IPC, on which summons were issued to the petitioners for appearance on 25.11.2016. They filed the petition at hand invoking the inherent power of this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C) to seek quashing of the said proceedings.

On 15.12.2017, it was brought to light that the summons have been issued to the petitioners pursuant to the order dated 18.10.2016 of Chief Metropolitan Magistrate reading thus:-

“Accused persons are yet to be summoned in the present matter and no prejudice would be caused to either party if the proposed accused persons are called by way of notice and settlement efforts are made in the present matter. Accordingly, issue notice to proposed accused persons on filing of PF through SHO, PS Shahdara, returnable on 25.11.2016”.

The counsel appearing for the respondent – Ajay Kumar Sharma who is the complainant before the Court of Magistrate submitted that, till date, no summoning order under Section 204 Cr.P.C. has been passed. He agreed that in this view, the prayer for quashing ought not be entertained. At the same time, on being asked, he fairly conceded that the approach of the trial court in the afore-quoted order dated 18.10.2016 was in the nature of procedure unknown to law. The persons sought to be summoned as accused could not have been called when the pre-summoning inquiry was still not concluded for persuading them to settle the matter with the complainant. The counsel submitted that, in above view, he undertakes not to press any further enforcement of the above-quoted order dated 18.10.2016. He also submitted that till a summoning order is passed under Section 204 Cr.P.C. on his complaint, there shall be no insistence on the presence of the petitioners before the concerned Magistrate. His undertakings to this effect are recorded.

The directions in the order dated 18.10.2016 for notices to be issued to the petitioners for settlement efforts, being wholly illegal and erroneous, are set aside.

With these directions, the petition and the applications are disposed of.

The trial court record shall be returned forthwith.

R.K.GAUBA, J.

AUGUST 29, 2018/P
CRL.M.C. 4355/2016

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