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

+ W.P.(CRL) 2830/2019 & CRL M.A. 37490/2019 & Crl.
M.A. 37491/2019

PAWAN KAMRA

..... Petitioner

Through Mr. Pritish Sabharwal, Adv.

versus

STATE

..... Respondent

Through Mr. Sanjay Lao, Ld. ASC.
Insp. Arun Chauhan-Anti
Corruption Branch, GNCT of
Delhi

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J.(ORAL)

Crl. M.A. 37491/2019(Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2830/2019 & CRL M.A. 37490/2019.

1. This is a petition filed by the petitioner Pawan Kamra challenging the Order dated 26.09.2019 passed by Mr. Sanjay

Khanagwal, Ld. Special Judge, PC Act-02/ACB, Rouse Avenue Courts, New Delhi

2. It is argued by learned counsel for the petitioner that the Ld. Sessions Judge has initiated the proceedings under Section 83 of the code of Criminal Procedure and has directed attachment of the movable and immovable property of the petitioner where the old wife of the petitioner and his daughter are residing. They will be evicted forcefully within a period of 48 hours. They have no other place or house to reside in. The petitioner is not deliberately evading his arrest. He has filed a WP(C) 2170/2019 for quashing of the FIR which has been reserved for orders by this court. The petitioner has been falsely implicated in this case. The investigating officer has deliberately started a coercive action against the wife and daughter of the petitioner on 27.09.2019 whereby a notice has been pasted at the house of the petitioner stating therein that her husband is deliberately evading arrest and directed the wife and daughter of the petitioner to vacate the above said premises. It is submitted that the notice is illegal and void and it has been issued in the name of his wife. IO has deliberately moved an application on 26.09.2019, praying that process under Section 83 Cr.P.C. be issued against the petitioner for attachment of his movable and immovable property knowing well that order of quashing has been reserved by the court. It is, therefore, prayed that the order dated 26.09.2019 passed by Sh. Sanjay Khanawal, Ld. Special Judge, PC Act-02/ACB, Rouse Avenue Courts, New

Delhi be quashed and the notice of the IO dated 27.09.2019 be also set aside in the interest of justice.

3. Ld. Addl. Standing Counsel has opposed the quashing of the order dated 26.09.2019 of Ld. Special Judge, PAct-02 as well as the proceedings initiated by the IO. It is submitted that anticipatory bail of the petitioner has been dismissed by the Hon'ble Supreme Court. He is evading arrest. He has not surrendered before the court concerned after the dismissal of the application. The IO is carrying out the proceedings as per law. The house in question belongs to the petitioner and procedure prescribed by law is being followed by the investigating agency. The quashing petition under section 482 Cr.P.C. has been filed for quashing of FIR in question which is also not maintainable and order has been reserved by this court. The present petition be, therefore, dismissed and no grounds for stay are made out.

4. I have considered the rival submissions. The petitioner is involved in FIR No. 11/11 under Section 13(1)(d) of POC Act r/w Section 120B/420 IPC, PS AC Branch-GNCT of Delhi. He had moved anticipatory bail application which was first dismissed by Ld. Trial Court, thereafter by Hon'ble High Court and finally by Hon'ble Supreme Court on 26.06.2019. He has filed the present quashing petition against the order of Sh. Sanjay Khanawal, Ld. Special Judge, PC Act-02 dated 26.09.1019 and issuance of notice dated 27.09.2019 by the IO. The petitioner whose anticipatory bail was dismissed by Hon'ble Supreme Court on 26.06.2019, ought to

have surrendered himself before the IO or court concerned. He is, however, evading arrest. So far as petition for quashing of the FIR is concerned, the same was filed on 29.07.2019 i.e. approximately one month after the dismissal of the anticipatory bail application by Hon'ble Supreme Court. The petitioner did not surrender even after dismissal of the anticipatory bail application. He has, no doubt, filed a petition for quashing of FIR and this court will decide the same including the question whether it is maintainable or not. However, the proceedings initiated by the IO under Section 83 Cr.P.C. cannot be stayed at this stage. The respondent is carrying out the proceedings as per law and no interference is required from this court in this regard. There are no grounds to quash the order of the Ld. ASJ/Special Judge PC Act-02 dated 26.09.2019 and notice dated 27.09.2019 issued by the IO.

5. In view of the above facts and more particularly the fact that the anticipatory bail application of the petitioner stands dismissed by the Hon'ble Supreme Court on 26.06.2019, the present petition for quashing of the order passed by Ld. ASJ/Special Judge PC Act-02 dated 26.09.2019 and notice dated 27.09.2019 issued by the IO in pursuance of the proceedings under section 83 Cr.P.C. stands dismissed.

BRIJESH SETHI, J

OCTOBER 01, 2019

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