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

% Judgment delivered on: 04.05.2023

+ CM(M) 724/2023

RAHUL SHARMA

..... Petitioner

versus

THE STATE, GOVERNMENT OF NATIONAL CAPITAL
TERRITORY OF DELHI & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Anil Sharma and Mr. K.S. Rana,
Advocate along with petitioner-in-
person.

For the Respondents : Mr. Anuj Jain, Advocate for R-2.
Mr. Amit Vohra, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 22624/2023 (for exemption)

1. Exemption is allowed, subject to all just exemptions.
2. The application stands disposed of.

CM(M) 724/2023 & CM APPL. 22625/2023 (for stay)

3. Petitioners challenges the order dated 19.04.2023 in M.No. 328/23 titled as "*Sonal Garg vs. Rahul Sharma & Anr.*" whereby on an

application under Section 24 of the CPC, 1908 filed by the respondent No.1, the learned Principal District & Sessions Judge had transferred the MCA SCJ No. 6/22 titled as “*Sonal Garg vs, Rahul Sharma*” after withdrawal from the Court of Sh. Himanshu Raman Singh, learned ASCJ, Shahdara Distirct, Karkardooma Courts, Delhi to the Court of Sh. Deepak Sherawat, learned SCJ, Shahdara Distirct, Karkardooma Courts, Delhi to be tried as per law.

4. With the assistance of the counsel, this Court has come to a conclusion that the said order was passed in the absence of and without hearing the petitioner on such transfer petition.

5. The consideration of the petition/ application under Section 24 of the CPC, 1908, without hearing one of the sides may not be appropriate in the circumstances of the case for the reason that the parties appeared to be at variance with each other and at loggerheads on issues. In such situation, it would be prudent to permit all relevant parties to submit their arguments and consequent thereto, the Court ought to have passed the orders.

6. Having not heard the petitioner, this Court is of the considered opinion that the impugned order unsustainable and the present petition is fit for a remand.

7. Accordingly, the impugned order dated 19.04.2023 is set aside and the learned Principal District & Sessions Judge is requested to re-hear the matter *de novo* after giving an opportunity to all the parties concerned and passing appropriate orders in accordance with law.

8. In view of the above, the present petition along with pending application is disposed of with no order as to costs.

9. At the request and consent of the parties, list before the learned Principal District & Sessions Judge, Shahdara District, Karkardooma Courts, Delhi on 11.05.2023.

TUSHAR RAO GEDELA, J.

MAY 04, 2023

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