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

+ **CRL.M.C. 6655/2023, CRL.M.A. 24938/2023**

MANOJ DWIVEDI

..... Petitioner

Through: Mr. Raman Gandhi, Adv.

versus

STATE THROUGH GOVT. OF NCT OF DELHI Respondent

Through: Mr. Amit Sahni, APP and SI Parveen
Kumar, PS B.K. Road.

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Date of Decision: 15.09.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 24939/2023(exemption)

1. Exemption is allowed subject to all just exceptions.
2. Application is disposed of.

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3. The present petition has been filed seeking quashing of the order dated 02.02.2023 vide which the petitioner has been summoned for the offence punishable under Section 174A of IPC.
4. The facts, in brief, are that initially an FIR bearing No. 87/2017 was lodged under Section 406/420/34 IPC. In this case, the petitioner was declared Proclaimed Offender ('P.O.') vide order dated 03.07.2019

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however subsequently on 02.02.2023 parties entered into a settlement and the offence being compoundable in nature, the same were compounded and the learned Trial Court acquitted the petitioner and other accused persons in FIR No. 87/2017.

5. However, since the petitioner was declared P.O. he was summoned under Section 174A IPC.
6. Learned counsel for the petitioner submits that since the offence was only under Section 406/420 IPC the petitioner could not have been declared P.O. under Section 82 Cr.P.C.
7. Learned counsel for the petitioner has also submitted that only two notices were issued to the petitioner which were left to the Peon of the company of the petitioner. The petitioner was not aware of the notices.
8. It has further been submitted that thereafter, IO moved an application for the issuance of NBWs against the petitioner on 15.01.2019 for which NBWs were issued on 28.02.2019 and immediately thereafter the process under Section 82 Cr.P.C. was issued.
9. Learned counsel for the petitioner submits that the procedure was not followed and therefore the petitioner has wrongly been summoned under Section 174A IPC.
10. Issue notice. Learned APP for the state has accepted the notice.
11. It is a matter of record that the main offence has already been compounded and the main accused has already been acquitted.

Section 82 (4) of Cr.P.C. provides as under:-

“82(4)- Where a proclamation published under Sub-Section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393,



394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860) and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.”

12. The bare perusal of this section makes it clear that the offence punishable under Sections 406/420 IPC does not fall within Section 82 Cr.P.C.
13. Since the dispute is predominantly private in nature and the parties have settled all the disputes amicably, and the main offence has already been compounded, in the interest of justice it would be better to put a quietus to the proceedings. There would be no purpose in continuing with the proceedings under Section 174A of IPC.
14. Taking into account the totality of facts and circumstances, the proceedings under Section 174A of IPC and all proceedings emanating therefrom are quashed.
15. The present petitions stand disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 15, 2023/AR