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

+ **W.P.(CRL) 240/2024**

SONU

..... Petitioner

Through: Md Azam Ansari, Ms. Afshan,
Ms. Shahjahan and Mr. Mohsin Khan, Advocates.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sanjeev Bhandari, ASC for State
with Mr. Kunal Mittal, Mr. Arijit Sharma and
Ms. Rishika, Advocates with SI Manvendra, PS:
Crime Branch.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **23.01.2024**

CRL.M.A. 2198/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(CRL) 240/2024 & CRL.M.A. 2199/2024 (for direction)

3. This writ petition has been filed by the Petitioner seeking the following reliefs:-

“(A) Issue a writ of mandamus directing the respondents to serve appropriate notices on the petitioners under appropriate sections of Cr.P.C. as mandated in law in view of DB Judgment of this Hon'ble Court in PIL being W.P.(C) 7608 of 2017 dated 07 Feb 2018 of this Court and also Hon'ble Supreme Court judgment in Arnesh Kumar & Md Asfak case quoted in this writ petition.

(B) Direct the respondents No.2 &3 to take departmental action / disciplinary proceedings against the erring police officials who illegally resorted to such acts as mentioned in police complaints dated 20.01.2024 & 21.01.2024 and acted contrary to law.”



4. Issue notice.
5. Learned ASC accepts notice on behalf of the State.
6. Insofar as the first relief is concerned, learned counsel for the Petitioner states that the Police officials entered the house of the Petitioner without serving the mandatory notice required in terms of the judgments of the Supreme Court in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 469 and *Md. Asfak Alam v. State of Jharkhand and Another*, (2023) 8 SCC 632. The alleged offence against the Petitioner relates to theft of car, which entails maximum punishment upto 3 years and therefore, no attempt to arrest the Petitioner should have been made by the Police officials without the mandatory notice. There are also allegations in the petition of the Police officials manhandling the family members of the Petitioner.
7. As regards the first grievance, learned ASC appearing on behalf of the State candidly submits that there can be no violation of the directions and guidelines of the Supreme Court and in case, in future any investigation is required to be conducted in connection with the alleged offence, the procedure directed by the Supreme Court including service of notice will be followed. This, in my view, redresses the grievance raised. Insofar as the allegations against the two Police personnel having forcibly entered into the house of the Petitioner and manhandled the family members are concerned, it is open to the Petitioner to take recourse to the appropriate remedy available in law *albeit* the Court records that the learned ASC strenuously refutes the allegations.
8. Petition is disposed of in the aforesaid terms, leaving it open to the Petitioner to take recourse to the remedy available in law with respect to the allegations made. It is made clear that this Court has not expressed any



opinion on the alleged offence against the Petitioner or the allegations of the Petitioner against the Police officials and rights and contentions of both sides are left open.

9. Pending application also stands disposed of.

JYOTI SINGH, J

JANUARY 23, 2024/shivam/kks