



\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1262/2022 & CRL.M.A. 5537/2022**
HIMADRI SHEKHAR TYAGI

..... Petitioner

Through: Mr.Sharvan Dev, Adv. along
with petitioner in person.

versus

STATE THROUGH SECRETRAY & ORS.

..... Respondents

Through: Ms.Priyanka Dalal, APP.
SI Deepak, PS Burari.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

08.05.2024

%

1. This petition has been filed by the petitioner being aggrieved of the order dated 25.11.2021, passed by the learned Additional Sessions Judge (FTSC) (POCSO)-01 Central, Tiz Hazari Courts, titled *Himadri Shekhar Tyai v. ST & Anr.*, whereby the learned Additional Sessions Judge refused to let the accused no.1 in CC No. 405/2018 to be served with the notice of the above complaint through the SHO of the concerned Police Station.

2. The learned Additional Sessions Judge, in the Impugned Order, observed that it is the duty and obligation of the complainant to file the correct address of the accused to whom the service of summons is required to be effected, and that there is no provision for directing the SHO to trace the address of the accused.

3. The learned counsel for the petitioner submits that the learned Additional Sessions Judge has erred in law in passing the above order,



inasmuch as by an earlier order dated 05.08.2020, the then Additional Sessions Judge had issued fresh summons against the accused no.1 to be served through the SHO. The learned counsel for the petitioner submits that pursuant to the said order, the petitioner had filed an application providing the last four digits of the telephone number of the accused no.1 and also her Aadhar Card to the Court, however, by the Impugned Order, the said application has been rejected by making the above observation.

4. It is noticed that in the complaint, the address of the accused no.1 was given as one at Burari, Delhi. On 05.08.2020, the Court was not informed that the accused no.1 may now be staying in the State of Uttar Pradesh and address of her residence is not known to the petitioner. The said order does not reflect any consideration on these aspects, because these were not brought to the notice of the learned Additional Sessions Judge. It is only when the Court noticed these discrepancies, that the Court passed the Impugned Order, correctly stating that it is for the complainant to ensure that the accused is served with the notice and that this obligation cannot be put on the Police, especially where the application under Section 156(3) of the Code of Criminal Procedure, 1973 has been rejected by the Court.

5. I do not, therefore, find any infirmity with the Impugned Order.

6. The petition and the application are accordingly dismissed.

NAVIN CHAWLA, J

MAY 8, 2024/rv/RP

Click here to check corrigendum, if any