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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 850/2024, CRL.M.A. 7946/2024, CRL.M.A. 7947/2024
& CRL.M.A. 7948/2024
NITISH JAISWAL Petitioner

Through:

versus

STATE NCT OF DELHI AND ANR. Respondents

Through: Mr. Yasir Rauf Ansari, ASC with
With Insp. Sandeep Kr. Ahlawat,
P.S.- Burari.
Mr. Alok Sharma and Mr. Vasu
Agarwal, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
13.03.2024

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1. The present petition seeking following relief:

“i. Issue a writ in the nature Of Mandamus Or any other appropriate writ/s, order/s , direction/s, for setting aside notice dated 05.03.2024 , U/S 91/ 160 CR P C, PS: BURARI, served upon the petitioner, in contravention to the mandate of Code Of Criminal Procedure to produce documents which is a subject matter of Civil Suit Bearing No 361/2024, pending before the court OF LD. CIVIL JUDGE , TIS HAZARI COURTS, DELHI, already between the Petitioner And Respondent No 2/ Brijesh Kumar.”

2. The learned counsel appearing on behalf of the petitioner submits that he has filed suit for permanent injunction against the respondent no.2 on 19.02.2024 and same is pending. He submits that during the pendency of the said suit a notice was served upon him under Sections 91/160 Cr.P.C.



calling upon the petitioner to furnish certain documents relating to the subject matter of the suit.

3. He submits that such a notice is not tenable in law inasmuch as such a notice cannot be used a mode to collect the evidence at the instance of the defendant in the suit.

4. He further submits that there is no inquiry, trial or proceedings pending. In this view of the matter also the notice could not have been issued.

5. On the other hand, the learned Additional Standing Counsel appearing on behalf of the State, on instruction from the Investigating Officer who is present in Court, submits that though the notice was sent but no response of the same was given by the present petitioner.

6. He further submits that the inquiry has already culminated into a report which has been furnished to the DCP concerned. He submits that since the inquiry has concluded, therefore, no further notice will be sent to the petitioner under Section 91/160 Cr.P.C. prior to the registration of FIR, if at all the same is registered.

7. In view of the above, statement of the learned Additional Standing Counsel, the learned counsel appearing on behalf of the petitioner does not wish to press for the present petition.

8. The petition is dismissed as withdrawn.

VIKAS MAHAJAN, J

MARCH 13, 2024/ss