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

+ **CRL.M.C. 3242/2024**

HUSNAIN IMAM

..... Petitioner

Through: Mr. Mirza Rizwan Baig,
Advs. (through VC)

versus

THE STATE GOVT. OF NCT OF DELHI Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State with Ms.
Chavi Sood, Ms.
Simarneet Kaur, Ms.
Rishita Sharma and Mr.
Pawan Kamra, Advs. with
SI Deepak Sahu, PS Pul
Praladpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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27.05.2024

CRL.M.A. 12507/2024 (*exemption from filing the certified / true typed copies of the dim documents / dim annexures*)

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

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3. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (CrPC), challenging the order dated 07.08.2019, pursuant to which, summons were issued to accused persons in FIR No. 203/2016.
4. The petitioner claims that even though he is not an accused and was put in Column 12 of the chargesheet, he was wrongly

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served with summons.

5. It is not denied that the petitioner was not made accused in the chargesheet filed pursuant to the investigation in FIR No. 203/2016, his name was kept in Column 12.

6. It is apparent that the learned Trial Court had issued summons only to the accused persons and not the petitioner.

7. The learned counsel for the petitioner submits that since the summons were served on him; he had appeared before the learned Trial Court and also applied for bail.

8. He submits that the fact that the summons were inadvertently served on the petitioner was also brought to the knowledge of the learned Trial Court, however, the learned Trial Court has no power to recall its order which led to filing of the present petition.

9. It is undisputed that the chargesheet has not been filed by the State against the petitioner as accused. The name of the petitioner has been mentioned in Column 12. In terms of order dated 07.08.2019 also, the learned Trial Court issued summons only to the accused.

10. In terms of Section 319 of the CrPC, the learned Trial Court has power to proceed against any person, who during the course of an enquiry / trial, appears from the evidence to be an accused who has committed the offence. Such person may not necessarily be the accused as reflected by the prosecution in the chargesheet.

11. In the present case, however, the summons have categorically been issued only against the accused. Also, no reason has been mentioned as to why the summons would be issued against the petitioner who has been kept in Column 12.



12. In view of the above, it is clarified that the order dated 07.08.2019 does not relate to the issuance of summons against the petitioner.

13. It is, however, clarified that the learned Trial Court is not impeded to pass appropriate order against the petitioner or any other person, if during the course of any enquiry or trial, it appears from the evidence that such person, even though not being arrayed as an accused, has committed the offence as alleged and can be tried along with the other accused persons.

14. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 27, 2024
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