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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 3475/2022 & CRL.M.A. 20348/2024,
CRL.M.A. 24770/2024, CRL.M.A. 27936/2024,
CRL.M.A. 28933/2024

KAPIL MODI

.....Petitioner

Through: Petitioner in person.
Mr. Shiv Verma and Ms.
Manju Saxena, Advs.

versus

STATE GNCT OF DELHI

.....Respondent

Through: Mr. Satinder Singh Bawa,
APP for the State with SI
Sachin Panwar, PS
Fatehpuri Beri.
Ms. Rupali Bandhopadhyaya,
ASC for the State with Mr.
Abhijeet Kumar, Adv.
Mr. Shiv Chopra,
Mr. Ansh Singh Luthra,
Ms. Surbhi Arora and
Mr. Siddharth Arora,
Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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05.11.2024

1. The petitioner is aggrieved by the order dated 07.05.2022, passed by the learned Principal District & Sessions Judge (**PDSJ**), South District, Saket Courts, pursuant to which the application filed by the petitioner under Section 91 of the Code of Criminal Procedure, 1973 (**CrPC**), was dismissed.
2. The learned PDSJ noted that no case was pending before the Court and therefore, the application under Section 91 of the CrPC was not maintainable.
3. The petitioner submits that the application under Section 91 of the CrPC was filed before the learned Trial Court in FIR No. 135/2018. He submits that the learned Trial Court had



refused to take the application on record, which led to the petitioner filing an application before the learned PDSJ. He submits that the petitioner cannot be left remediless.

4. On being pointedly asked, it is informed that the petitioner has already been summoned in the present case.

5. It appears that the learned Trial Court had refused to accept any application from the petitioner at that stage because the petitioner had not been summoned. In the absence of the accused being summoned, the learned Trial Court, in the opinion of this Court, rightly refused to entertain any application on behalf of the accused.

6. However, undisputedly at this stage, the petitioner has already been summoned and the matter is now fixed for arguments on charge. Therefore, there is no impediment on the petitioner to file an application seeking appropriate reliefs.

7. As and when, any such application is filed, the learned Trial court is directed to decide the same in accordance with law.

8. It is made clear that this Court has not given any opinion on the maintainability of any such application and the learned Trial Court is expected to pass an order after considering the arguments advanced by the parties.

9. Certain applications have been filed by the petitioner challenging the subsequent orders passed by the learned Trial Court. The petitioner is at liberty to file a substantive petition challenging any order that the petitioner may be aggrieved with.

10. The present petition is disposed of in the aforesaid terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

NOVEMBER 5, 2024 / 'KDK'