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

+ **CRL.M.C. 4403/2024**

SUDESH CHHIKARA Petitioner

Through: Mr. Jaipal Singh, Adv.

versus

BALJEET SINGH AND ORS Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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28.05.2024

1. The present petition is filed under Article 227 of the Constitution of India seeking setting aside of the order dated 17.02.2024 (hereafter '**impugned order**'), passed by the learned Metropolitan Magistrate, Central District, Tis Hazari Courts, Delhi, in CC No. 13432/2017.

2. The complaint case was filed by the petitioner against the respondents for the offence under Section 500 of the Indian Penal Code, 1860, whereafter the learned Trial Court had summoned the respondents as accused persons.

3. On 14.01.2019, the learned Trial Court had issued notice under Section 251 of the CrPC against the respondents / accused persons. It was specifically noted that there is no statutory requirement of serving the notice in a particular format and the only requirement is to convey the particulars of the offence to the accused persons for which they have been summoned. It was noted that all the accused persons had been given notice of the allegations against them and they had pleaded not guilty. The

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matter was then fixed for post charge evidence on 28.03.2019.

4. The petitioner thereafter filed an application under Section 251 of the CrPC before the learned Trial Court praying that a formal and proper notice fulfilling the requirement of Section 251 of the CrPC be given to the accused persons.

5. The learned Trial Court, by the impugned order, noted that once an effective order has been passed, the Court becomes *functus officio* and dismissed the application filed by the petitioner.

6. The learned counsel for the petitioner submits that the notice conveyed by the learned Trial Court on 14.01.2019 is irregular.

7. He submits that the petitioner has filed the present petition since he apprehends that benefit of the said irregularity will be claimed by the respondent at a subsequent stage.

8. The arguments raised by the petitioner are meritless.

9. The learned Trial Court in order dated 14.01.2019 had specifically noted that there is no statutory requirement of serving the accused in a particular format. It is clear from the said order that all the accused persons had been apprised of and conveyed the allegations against them in Court in person except Respondent No.8, to whom the notice was conveyed through his counsel. The particulars of the offence, thus, had been stated to the accused persons.

10. The respondents have not challenged the order dated 14.01.2019, whereby notice was served in terms of Section 251 of the CrPC, on the ground of irregularity of any kind till now.

11. This Court finds no infirmity in the impugned order passed by the learned Trial Court or the notice served in terms of Section



251 of the CrPC in the present case.

12. In the opinion of this Court, the present petition is frivolous and an abuse of the process of Court.

13. The present petition is, therefore, dismissed.

AMIT MAHAJAN, J

MAY 28, 2024

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