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

+ **W.P.(CRL) 2055/2024 & CRL.M.A. 19939/2024**

SUBHADRA SHUKLA

.....Petitioner

Through: Ms.Anjali Jha. Manish,
Ms.Priyadarshi Manish, Ms.Divya
Rastogi and Ms.Sherin Shajahan00,
Advocates.

versus

ASSISTANT DIRECTOR,

DIRECTORATE OF ENFORCEMENT

.....Respondent

Through: Mr.Anupam S. Sharma, SPP with
Mr.Prakarsh Airan, Ms.Harpreet
Kalsi, Mr.Abhishek Batra, Mr.Ripu
Daman Sharma, Mr.Vashisht Rao,
Mr.Syamantak Modgill and
Mr.Ayush Kumar, Advocates for ED.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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10.07.2024

1. Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner with the following prayers:

“(a) Issue a writ order or direction in the nature of certiorari to quash and set-aside the summons dated 05.06.2024 issued under file No. ECIR/MBZO-II/02/2018 and summons bearing No.PMLA/SUMMON/MBZO-II/2024/1513, dated 27.06.2024;

(b) Issue a writ order or direction in the nature of mandamus to declare the act of the Respondent i.e. conducting the investigation by issuing summons against the ECIR No.ECIR/MBZO-II/02/2018, under Section 50 of the PMLA,



2002 to the Petitioner, is illegal, as the same has been made without authority of law;

(c) Issue a writ order or direction in the nature of mandamus to direct the Respondents not to issue further summons under Section 50 of the PMLA, 2002.”

2. Issue notice. Learned SPP for ED appears on advance notice and accepts notice.
3. In brief, petitioner, who is a practicing Advocate is aggrieved against summons issued by the Enforcement Directorate, Mumbai, Zonal Office-II at Delhi for appearance at Parvartan Bhawan, Delhi with reference to inquiry being carried out against one of her clients. Present summons are stated to have been issued for appearance on 05.06.2024 and 27.06.2024, though the ECIR was registered in the year 2018.
4. Learned counsel for petitioner submits that client represented by the petitioner in the ED proceedings had not been arrayed as an accused in the ECIR. She further contends that communication between the petitioner and her client is ‘privileged communication’ under Sections 126/129 of the Indian Evidence Act, 1872. Referring to Section 160 Cr.P.C. it is further urged that petitioner cannot be summoned at Mumbai. The jurisdiction of this Court is stated to have been invoked since the summons have been issued for appearance at Delhi office, though the ECIR was registered at Mumbai by Enforcement Directorate.

Reliance is further placed upon ***Asmita Agarwal v. The Enforcement Directorate &Ors.***, 2002 (61) DRJ 339 (DB); ***Union of India v. Ashok Kumar Sharma & Ors.***, (2021) 12 SCC 674; ***Badri Narayan Joshi @ B.N.Joshi v. Union of India & Ors.***, W.P. No.18777(W) of 2019, decided



on 26.09.2019; **A.V.Pavithran (Advocate) v. Central Bureau of Investigation Anti-Corruption Branch Through the Special Public Prosecutor & Anr.**, 2024 SCC OnLine Bom1158; **K.Ponnammal & Ors. v. A Loganathan**, 2010 (2) CTC 63; and **Tirumalasetty Anjaneyulu v. Union of India & Ors.**, 2023 SCC OnLine AP 4162.

5. On the other hand, learned SPP for ED vehemently opposes the petition and submits that the ECIR was registered at Mumbai and the complaint has further been filed before the concerned Special Judge dealing with ED cases wherein the cognizance has been taken. It is urged that mere summoning of petitioner at Delhi Office does not confer the jurisdiction to Court. Reliance is further placed upon **K.V. Brahmaji Rao v. Union of India & Ors.**, W.P.(Crl.) 3609/2018 decided by learned Single Judge of this Court on 04.09.2023. It is pointed out that the summons have been issued to the petitioner, in view of evidence collected during inquiry and the same is not protected under Sections 126/129 of the Indian Evidence Act, 1872.

6. At this stage, without prejudice to the rights and contentions of the petitioner, learned counsel for the petitioner submits that petitioner shall be filing appropriate proceedings before the High Court of Bombay and prays that interim protection/directions be granted by this Court for aforesaid purpose.

7. Taking the statement of learned counsel for the petitioner on record, writ petition is disposed of with directions to respondent ED to not to insist upon the presence of the petitioner for a period of four weeks from the date of passing of this order, pursuant to summons issued by the respondent, in order to enable the petitioner to file appropriate proceedings before the High Court at Bombay. Further, keeping in perspective Section 126 of Indian



Evidence Act, 1872 and the facts and circumstances of the case, in case, the respondent (ED) proposes to seek any specific information/document from petitioner in the intervening period, the same may be sought by a communication addressed to the petitioner, which may be responded by the petitioner in accordance with law.

Pending applications, if any, also stands disposed of.

ANOOP KUMAR MENDIRATTA, J

JULY 10, 2024/v