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

+ CRL.M.C. 5847/2024, CRL.M.A. 22359/2024,

DAYAWATI & ANR.

.....Petitioners

Through: Mr. Kartar Singh, Mr. N.C. Chauhan
and Ms. Shweta Mathur, Advocates.

versus

STATE OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Utkarsh, APP for the State with
Mr. Sunil Kumar, Mr. Vikas Pathak,
Ms. Anjali Verma, Mr. Ankit
Chauhan, Mr. Kapil Rathore, Ms.
Sana, Mr. A. Srivastava, Advocates.
SI Sandeep Kumar, P.S. Alipur.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

31.07.2024

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CRL.M.A. 22360/2024 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed of.

CRL.M.C. 5847/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioners impugn summons/notices dated 21.02.2023 issued by the learned Special Executive Magistrate ('SEM'), Outer North District, Sector-11, Rohini, Delhi under sections 107/111 of the Cr.P.C. The petitioners also impugn order dated 05.07.2024 ('impugned order') made by the learned ASJ-04, North District, Rohini Courts, Delhi, dismissing revision petition bearing CR No. 71/2023 filed by the petitioners, impugning the issuance of the said summons/notice.



2. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or made*" in accordance with the Cr.P.C. *only* in cases where *such proceedings*, viz. "*any appeal, application, trial, inquiry or investigation*", were already *pending* immediately before the date on which the BNSS came into force, i.e. 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings by changing the governing law during the pendency of such proceedings.
3. Since the present petition has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 528 of the BNSS.
4. Briefly, summons/notices dated 21.02.2023 were issued by the learned SEM based on D.D. No: 104-A dated 14.02.2023 recorded under sections 107/150 of the Cr.P.C. at P.S.: Alipur, which narrated that by reason of some property dispute, certain persons including the petitioners, were likely to cause breach of peace since parties had been extending threats; and there was apprehension of commission of cognizable offences and disturbance of public tranquillity.
5. On that basis, the learned SEM summonsed the petitioners, requiring them to appear in his court on 15.03.2023 at 02:00 p.m. to show cause



as to why they should not be directed to furnish a bond in the sum of Rs. 10,000/- with one surely in the like amount, for keeping peace.

6. This order of the learned SEM was challenged by the petitioners by way of a criminal revision petition before the learned ASJ; and *vide* order dated 05.07.2024 the learned ASJ has been pleased to dismiss that petition by a detailed and reasoned order passed after perusing the trial court record. The order *inter-alia* records that a quarrel had broken-out between the parties by reason of which they had to be taken to hospital by the police, though neither of the parties had sustained any injuries at that time and no MLC was recorded.
7. The order of the learned SEM further records, that pursuant to an inquiry, a *kalandara* under section 107/150 of the Cr.P.C. was drawn-up *inter-alia* against the petitioners; and after discussing with senior police officials, the *kalandara* was filed before the court of the learned SEM.
8. Upon being queried, learned counsel appearing for the petitioners submits, that consequent upon the dismissal of the criminal revision petition by the learned ASJ *vide* order dated 05.07.2024, no further proceedings have been conducted before the learned SEM.
9. In this backdrop, the learned ASJ has found no illegality, infirmity and perversity in the order of the learned SEM in issuing summons/notices to the petitioners; and has dismissed the revision petition.
10. Upon a perusal of the impugned order, as well as the aforementioned summons/notices dated 21.02.2023, and upon a conspectus of the matter, this court finds no reason to interfere in the proceedings



conducted so far, in exercise of its inherent powers under section 528 of the BNSS.

11. The petition is accordingly dismissed *in-limine*.

ANUP JAIRAM BHAMBHANI, J

JULY 31, 2024

V.Rawat