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

+ **CRL.M.C. 8344/2023 & CRL. MA 23640/2024**

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.....Petitioner

Through: Mr. Saurabh Kirpal, Senior Advocate  
with Ms. Mrinalini Sharma and Ms.  
Promila Matta, Advocates.

versus

STATE (NCT OF DELHI) & ANR

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for State  
with WSI Kusum Choudhary PS  
KNK Marg, New Delhi.  
Mr. Pradeep Kumar, Mr. Munish  
Gupta and Ms Lavanya Popli,  
Advocates for respondent no.2.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**12.08.2024**

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1. By way of present petition, the petitioner seeks setting aside of the order dated 29.11.2022 passed by the learned Judicial Magistrate, First Class (Link Magistrate) in FIR no.328/2021 registered under Section 498A/354/377/406/506/34 IPC at PS K.N. Katju Marg, Delhi whereby respondent no.2 was admitted to regular bail.
2. Mr. Saurabh Kirpal, learned Senior Counsel appearing for the petitioner/complainant contends that the impugned order has been assailed on two grounds. Firstly, that the petitioner/complainant was not put to any notice and secondly, that while the anticipatory bail application of the respondent No.2 was pending before this Court in which the respondent



No.2 had been granted interim protection, the impugned order came to be passed and that too, not by the regular Court but by the link Magistrate. Learned Senior Counsel also submits that the impugned order is cryptic and shows no application of mind. He further relies upon the decision of the Coordinate Bench in ABC v. State, reported as **2024 SSC OnLine (Del.) 364** and prays that the matter be remanded back for fresh consideration, after giving due notice to the complainant.

3. Learned counsel for the respondent No.2 states, upon instructions, that he has no objection to the aforesaid course of action, however, prays that the protection given to the respondent No.2 be continued, which has inured in his favour vide the impugned order. Learned Senior Counsel appearing for the petitioner/complainant fairly does not object to the said prayer. Learned counsel for the respondent states that the respondent No.2 would approach the Trial Court within a period of two weeks from today.

4. In view of the aforesaid facts and circumstances, the impugned order dated 29.11.2022 is set aside. The trial court on being approached by respondent No.2 shall apply mind afresh, after giving due notice to the complainant. Till then, the protection granted to the respondent No.2 shall continue.

5. The petition is disposed of in above terms along with pending application.

6. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present petition and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the



disposal of the present petition and that the prayer for bail that would be made by the respondent No.2 shall be considered on the merits of the case, in accordance with law.

**MANOJ KUMAR OHRI, J**

**AUGUST 12, 2024/rd**