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

+ **W.P.(CRL) 2688/2024 & CRL.M.As. 26369/2024, 26368/2024**

SHAMIM AKHTAR

.....Petitioner

Through: Mr. M. Sufian Siddiqui, Mr. Rakesh Bhugra, Md. Niyazuddin & Ms. Alya Veronica, Advocates.

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Amol Sinha, ASC, Crl. for State.
Mr. Vijay Kr. Gupta, Advocate for R-2.
S.I. Vivek Goutam & S.I. Satish Bhati, PS Okhla Industrial Area, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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02.09.2024

1. The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner seeking to quash the impugned Notice dated 27.08.2024 issued under Section 91 Cr.P.C., 1973 in FIR No. 680/2021 registered at Police Station Okhla Industrial Area, Delhi as being void *ab initio* and the abuse of process of law and in blatant transgression of the dictum of the decision of the Constitution Bench of the Apex Court in State of Gujarat vs. Shyamlal Mohanlal Choksi, AIR 1965 SC 1251.

2. Learned Additional Standing Counsel for the State and the learned



counsel for the respondent No. 2 appearing on advance Notice submit that the Investigating Officer shall proceed under the correct provisions of law for investigation/interrogation of the petitioner and take appropriate steps for recovery of the documents, in accordance with the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023. He further submits that the Notice under Section 91 Cr.P.C., 1973 shall not be pursued in view of the decision of the Constitution Bench of Apex Court in State of Gujarat (supra).

3. Learned Additional Standing Counsel on behalf of the State further submits that despite service of Notice under Section 41A Cr.P.C., 1973, the petitioner is not cooperating in the investigations. However, learned counsel for the petitioner refutes the same by submitting that the petitioner has appeared in response to Notice under Section 41A Cr.P.C., 1973.

4. **Submissions heard.**

5. In view of the submissions made, the present petition along with pending applications is disposed of with the direction that the Notice under Section 91 Cr.P.C., 1973 be not pursued. However, the respondent No. 1 is at liberty to continue with the investigations in accordance with law.

NEENA BANSAL KRISHNA, J

SEPTEMBER 2, 2024

S.Sharma