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

+ **CRL.M.C. 7283/2024, CRL.M.A. 27795/2024**

**SATISH KUMAR**

.....Petitioner

Through: Mr. Syed Hasan Isfahani, Adv.

versus

**STATE OF NCT OF DELHI & ORS.**

.....Respondents

Through: Ms. Priyanka Dalal, APP for State and W/SI Teena Phogat, PS Dabri, SI Ashish Kumar, PS Dwarka North.  
Mr. Akshat Sharma, Mr. Lal Singh Thakur , Mr.. Mehul Gulati Advs. for R-3 (VC).

**CORAM:**

**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER**

**07.11.2024**

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**CRL.M.A. 27796/2024**

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

**CRL.M.C. 7283/2024**

3. The present petition has been filed under Section 528 BNSS with the following prayer:

*“(a) set aside order dated 23.03.2024 in Ct. No. 2013 of 2022 passed by the Ld. Court of Ms. Neetika Kapoor and direct the Ld. Trial Court to pass a speaking order on application of the petitioner moved under section 156(3) of Cr.P.C. after considering status report filed by the investigating officer;*



*(b) Quash order 09.08.2024 and direct the S.H.O. P.S. Dwarka North/ Investigating Officer Shri Ranjeev Kumar DIU/ Dwarka to release the vehicle No. DL-10-CN-7959 to the petitioner on superdari;*

*(c) Direct the Commissioner Delhi Police to take action against Respondent No.3 Ms. Teena Phogat, Sub Inspector for her illegal actions and acting like a recovery agent of Respondent No.3 even after knowing the fact that Shri Ranjeev Kumar, Inspector DIU/Dwarka has already filed closure report in FIR No. 687/2022, P.S. Dwarka North and the car in question is not wanted in the said FIR on 27.06.2024; and*

*(d) pass such other and further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”*

4. Learned APP appearing on behalf respondent No.1, 2 and 4 and Mr. Akshat Sharma, learned counsel for respondent No.3 at the outset submits that the present petition against order dated 23.03.2024 and 09.08.2024 are not maintainable as the petitioner has invoked the jurisdiction of this Court without invoking the revisional jurisdiction of the Ld. Sessions Court. Learned counsel submits that therefore the present petition is liable to be dismissed.
5. Besides the objection taken by the learned counsel for respondent No.3, the petitioner has sought a direction from this Court to Commissioner, Delhi Police to take action against respondent No.3 Ms. Teena Phogat, Sub-Inspector for her illegal actions and for acting like a recovery agent of respondent No.3. I consider that this prayer on the face of it is untenable in the present proceedings. If the petitioner is aggrieved of any action by the police official there are enough remedies available



with the petitioner. The petitioner instead of exercising any of that remedy has rushed to this Court and has invoked the inherent power of the High Court. Even at the cost of brevity it may be stated that the inherent power of the Court can only be exercised to prevent any abuse of process of law or to secure the hands of the justice. However, this does not mean that the petitioner for any grievances would invoke the jurisdiction of this Court without availing any available equally efficacious appropriate remedy. The petitioner shall be at liberty to avail appropriate remedies available under the law.

6. Now coming to the two other prayers, challenging the order dated 26.03.2024 and 09.08.2024. It is pertinent to note that vide order dated 26.03.2024 learned MM had merely directed that the complaint under Section 200 CrPC to be tagged along with the closure report which was filed before the court and was listed in near future. Hence, there is nothing adverse in order dated 26.03.2024 that may be challenged. Furthermore, I consider that the order dated 09.08.2024 has been passed by Ld. MM, the first remedy available with the petitioner was to approach the Revisional Court instead of invoking the revisional jurisdiction the petitioner has inappropriately invoked the jurisdiction of this Court. The Court is conscious of the fact that the rule of exhaustion of the alternative remedy is rule of discretion and not one of compulsion. However, the rule of caution is that the High Court may not entertain a petition under Section 528 BNSS and pass an order ignoring the fact that the petitioner can avail an alternate remedy provided under the law. There is a distinction between entertainability and maintainability, therefore the inherent powers of this court must be



used with circumspection.

7. Perusal of the prayer and the petition indicates that there is a typographical error, and the impugned order is dated 26.03.2024 and not 23.03.2024.
8. In view of the facts and circumstances, the petition along with pending application(s) stands dismissed with liberty to the petitioner to invoke the revisional jurisdiction.

**DINESH KUMAR SHARMA, J**

**NOVEMBER 7, 2024/AR/KR..**