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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 3742/2024 & CRL. M. A. 35916/2024**
KUNAL JAIN

.....Petitioner

Through: Mrs. Ananya Mukherjee, Mr. Vikas
Kumar, Mrs. Selva Kumari and Mr.
Nityanand, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Nandita Rao, ASC (Crl.) for State
along with SI Rajesh Kumar P.S.
DIU/Dwarka.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
29.11.2024

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CRL. M. A. 35915/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(CRL) 3742/2024 & CRL. M. A. 35916/2024

1. By way of the present petition under Article 226 of the Constitution of India read with Section 528 BNSS, the petitioner is aggrieved by issuance of notice under Section 41(a) Cr.P.C by the IO to him.
2. Learned counsel for the petitioner while referring to the FIR contends that a reading of the same would show that the complainant is not sure as to the commission of offence by the present petitioner. She further submits that the petitioner is ready and willing to comply with the directions to



appear before the IO, however, contends that the issuance of summons under Section 41A Cr.P.C is bad in law in the absence of any credible information as to the involvement of the accused.

3. The present petition is resisted by learned ASC who submits that the petitioner is named as accused in the FIR. The relevant extracts of FIR is as under:

“....3. That I had made a complaint against the accused persons a P.S. Palam Vihar, Gurugram, Haryana and the same is still pending for investigation and number of other cases was filed by other persons against the accused persons. That the accused persons for misguiding the Hon’ble Court had created a false settlement deed dated 23.03.2018 and filed the same before the Hon’ble Court in Dwarka in Bail Proceedings which is alleged to be executed by me and one Dharambir with the accused persons, hence the accused persons had committed forgery with the Hon’ble session Court, Dwarka, New Delhi, I came to know that the accused persons after fetching criminal conspiracy alongwith their son namely Sh. Kunal Jain who was also present during the proceedings of above said Bail application before the Hon’ble Court, has false created/manipulated the said settlement deed and also committed forgery by putting my forged signature on the same, which looks like me, but the same are not done by me as not even any talk for any settlement was ever done by the accused persons with me, therefore, the question of reaching to any settlement and signing any settlement deed doesn’t arose, hence it is crystal clear that the accused persons with their son Kunal Jain has committed criminal conspiracy against me and forgery with the different courts of Law for illegal gain to themselves and illegal loss to me. It is pertinent to mention here that the alleged false and frivolous settlement Deed dated 21.03.2018 is alleged to be executed between me, Sh. Dharambir and the accused No.1, Smt. Neelu Jain and the other accused Suresh Jain is the witness in the said settlement Deed and the same is duly Notarized by Sh. D. Bir, Delhi, which clearly shows that the same was created and manipulated by the accused persons with a criminal conspiracy for committing forgery with the Hon’ble Court and for committing Fraud with me.”

4. A brief background is that the complainant had initially lodged a complaint against the parents of the present petitioner vide FIR No. 119/2017 registered under Section 420/34 IPC. The complainant claims that



in the bail proceedings in the said FIR, a forged settlement deed was placed before the Court by the present petitioner. It is in that context, the present FIR has been registered.

5. At this juncture, this Court deems it apposite to reproduce Section 41A Cr.P.C which reads as under:

“41A. Notice of appearance before police officer.-- (1) ²[The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.....”

6. Sub-section (1) stipulates that a person can be summoned even when there is a reasonable suspicion. Without commenting further, in the light of the aforesaid contents, it is the opinion of this Court that the summoning of the petitioner under Section 41A requires no interference.

7. In case the IO finds no credible information with respect to the petitioner, the petitioner shall be at liberty to move an application in accordance with law. Needless to say, this Court has not expressed any opinion on the merits of the case and in case the need so arises, the petitioner would be at liberty to seek remedy in accordance with law.

MANOJ KUMAR OHRI, J

NOVEMBER 29, 2024/ssc