



\$~95

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

+ **CRL.M.C. 9666/2024**

JYOTI SHARMA

.....Petitioner

Through: Mr. Ramkishan Saraswat, Mr. Piyush
Pathak, Mr. Rohit Yadav, Ms. Jaya
Singraha, Mr. Arun Upadhya, Advs.

Versus

STATE (GOVT OF NCT OF DELHI)Respondent

Through: Ms. Priyanka Dalal, APP with SI
Ankur, PS Cyber South

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **10.12.2024**

CRL.M.A. 37111/2024

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

CRL.M.C. 9666/2024

3. This is a petition filed under section 528 of BNSS seeking quashing and setting aside of the order dated 28.10.2024 passed by the learned Chief Judicial Magistrate (South), Saket Courts, in Misc Crl. No. 29865/2024.
4. On 28.10.2024, the learned Chief Judicial Magistrate was pleased to dismiss the application filed by the petitioner seeking cancellation of Non Bailable Warrants on the ground that the petitioner despite being served with the notice under section 41A of Code of Criminal Procedure, 1973, the petitioner has not joined investigation.
5. Mr. Saraswat, learned counsel for the petitioner states that in the present case, the petitioner was not served with a valid notice under Section 41A of Code of Criminal Procedure, 1973 as the address wherein the notice



was served belonged to the in-laws of the petitioner and the petitioner is not on good terms with her in-laws. In addition, the petitioner was not even served with the bailable warrants.

6. Issue notice. Mr. Gautam, learned APP accepts notice on behalf of respondent no.1.

7. In the present case, as per the case of the petitioner, the petitioner was not served with the notice under Section 41A of Code of Criminal Procedure, 1973 as the notice was served at the address of the in laws of the petitioner. The petitioner was also not served with the bailable warrants.

8. The Non Bailable Warrants were issued against the petitioner on 14.10.2024 and after getting to know the judicial process, the petitioner duly approached the court and filed an application before the Chief Judicial Magistrate seeking cancellation of the non bailable warrants.

9. I am of the view that the purpose of issuing bailable and non-bailable warrants is to ensure the presence of a person before the judicial process. The intention of the Court is not to punish the person for their non-appearance but to ensure the presence of the person before the judicial process.

10. For the said reasons, the order dated 28.10.2024 passed by the learned Chief Judicial Magistrate (South), Saket Courts, in Misc CrI. No. 29865/2024 is set aside and the Non Bailable Warrants issued against the petitioner are quashed.

11. The petitioner undertakes to appear on each and every date of hearing before the Chief Judicial Magistrate, South District, Saket Courts.

12. In this view of the matter, the petitioner shall appear before the learned Chief Judicial Magistrate (South), Saket Courts on 13.12.2024.



13. The petition is disposed of accordingly.

JASMEET SINGH, J

DECEMBER 10, 2024/DM

[Click here to check corrigendum, if any](#)