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

+ **CRL.M.C. 909/2025 & CrI.M.A.4197/2025**

AKHILESH BALI

.....Petitioner

Through: **Mr. Arjun Dewan and Mr. Aryan
Deol, Advocates**

versus

STATE OF NCT OF DELHI & ANR.

....Respondents

Through: **Mr. Raghuinder Verma, APP for the
State with ASI Vinod Kumar, CAW
Cell, Kamla Market
Mr. H.S. Phoolka, Senior Advocate
with Mr. Jai Shankar, Ms. Nandita
Rao, Ms. Surpreet Kaur, Mr. Ashish
Kumar and Mr. Arani Chaudhary,
Advocates for R-2**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
25.02.2025

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1. The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the petitioner seeking quashing of the impugned order dated 28th May, 2024, passed by the learned MM – 03, Tis Hazari Courts, District Central, Delhi in Cr. Case No. 8825/2024, quashing of the chargesheet dated 15th May, 2024 and the FIR bearing no. 427/2023, registered at Police Station – Rajinder Nagar, for the offences punishable under Sections 447/506/420 and 120B of the Indian Penal Code, 1860 (hereinafter “IPC”) as well as all the consequential proceedings arising therefrom.

2. Learned counsel appearing on behalf of the petitioner submitted that



the petitioner is challenging the summoning order dated 28th May, 2024 passed by learned Metropolitan Magistrate-03, Tis Hazari Courts, District Central, Delhi on the ground that the same has been passed without application of judicial mind.

3. It is submitted that a bare perusal of the impugned order shows that cognizance has been taken in utter disregard of the settled law. Moreover, the learned MM has failed to record any sufficient reason for issuance of summons to the petitioner. It is further submitted that the impugned order is contrary to the law in as much as the same does not even mention the specific offences for which the learned MM summoned the petitioner.

4. It is submitted that that the FIR was registered for the commission of offences punishable under Sections 498A, 406, 506 and 34 of the IPC, however, the chargesheet was filed for the commission of offences under Sections 313, 328, 354A, 377, 406, 498A, 506, 509 and 34 of the IPC. It is further submitted that the learned MM, while passing the impugned order, failed to take into consideration that additional charges have been added in the chargesheet and erroneously summoned the petitioner in a mechanical and casual manner.

5. It is submitted that the impugned order is also bad in law as the petitioner - husband has been summoned by the learned MM for the offence punishable under Section 377 of the IPC which is against the settled law.

6. It is submitted that a bare perusal of the FIR as well as the chargesheet would reveal that the allegations made against the petitioner are not substantiated with any material evidence and that no *prima facie* case is made out against the petitioners since the ingredients necessary for the commission of the aforesaid offences are absent. Therefore, the FIR as well



as the chargesheet is liable to be quashed.

7. It is further submitted that the impugned order is bad in law and the same is contrary to the facts and all the material collected by the investigating agency during the course of investigation along with the chargesheet filed by the police. Therefore, it is prayed that the instant petition may be allowed and the reliefs be granted as prayed for.

8. Thereafter, Mr. H.S. Phoolka, learned senior counsel for the respondent No.2 vehemently opposed the instant petition, however, he has fairly conceded that the sections mentioned in the chargesheet have not been properly considered by the learned MM while taking cognizance of the offences, and further submitted that the matter may be remanded back to the learned MM for passing a fresh order while considering the entire facts of the case as well as all the material of the chargesheet, and the different provisions of IPC as mentioned in the chargesheet against the accused persons.

9. At this stage, learned counsel appearing on behalf of the petitioner, on instructions, submitted that he has no objection if the matter is remanded back to the learned MM for passing a fresh order on cognizance and summoning the accused person/petitioner.

10. Heard learned counsel for the parties and perused the material on record.

11. Taking into consideration the arguments of learned counsel for the petitioner, contention of the learned senior counsel appearing on behalf of the respondent no. 2 that the matter may be remanded back to the Court concerned as well as the no objection of the learned counsel for the petitioner and contents of the instant petition, this Court is inclined to



remand the matter back to the learned MM.

12. In view of the aforesaid terms, the impugned order dated dated 28th May, 2024, passed by the learned MM – 03, Tis Hazari Courts, District Central, Delhi in Cr. Case No. 8825/2024 is set aside *qua* the petitioner herein.

13. The learned MM is directed to pass a fresh order after considering the entire facts of the case, all the material on record along with the chargesheet, sections mentioned in the chargesheet filed by the investigating agency and all the submissions advanced by learned counsel for the parties in accordance with the law, expeditiously, preferably within four weeks.

14. The matter be listed before the learned MM on 10th March, 2025.

15. It is made clear that this Court has not gone into the merits of the FIR and the chargesheet, and the observations made hereinabove are solely for the purpose of deciding the instant petition *qua* the impugned order dated 28th May, 2024. Further, the learned MM shall decide the matter in accordance with the law.

16. With the directions as aforesaid, the instant petition along with pending applications, if any, stands disposed of.

CHANDRA DHARI SINGH, J

FEBRUARY 25, 2025

Rt/ryp

Click here to check corrigendum, if any