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

+ **CRL.M.C. 5393/2024 &CRL.M.A. 20649/2024**

ACHHRU RAM SHARMA

.....Petitioner

Through: Mr. Sarojanand Jha, Mr. Suraj Malik,
Ms. Rajreeta Ghosh and Mr. Rahul
Kumar, Advocates.

versus

BHUWAN GOYAL & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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18.07.2024

CRL.M.A. 20650/2024 (Exemption)

1. Allowed, subject to all just exception.
2. Application stands disposed of.

CRL.M.C. 5393/2024

1. This petition has been filed under Section 227 of the Constitution of India seeking quashing of the order dated 29th June, 2024 passed by Ld. ACMM, Central, Tis Hazari Court, issued notice to the proposed accused in application filed by petitioner under Section 340 Cr.P.C.
2. Counsel for petitioner relies upon the judgment of Supreme Court in ***Prithish vs State of Maharashtra &Ors.*** (2002) 1 SCC 253, where the Apex Court held as under:

“12... Thus, the person against whom the complaint is



made has a legal right to be heard whether he should be tried for the offence or not, but such a legal right is envisaged only when the Magistrate calls the accused to appear before him. The person concerned has then the right to participate in the pretrial inquiry envisaged in Section 239 of the Code. It is open to him to satisfy the Magistrate that the allegations against him are groundless and that he is entitled to be discharged.

13. The scheme delineated above would clearly show that there is no statutory requirement to afford an opportunity of hearing to the persons against whom that court might file a complaint before the Magistrate for initiating prosecution proceedings. Learned counsel for the appellant contended that even if there is no specific statutory provision for affording such an opportunity during the preliminary inquiry stage, the fact that an appeal is provided in Section 341 of the Code, to any person aggrieved by the order, is indicative of his right to participate in such preliminary inquiry.”

3. Issue notice to the respondent on steps being taken by petitioner through all permissible modes including email. etc.
4. Counsel for petitioner also draws attention to the order of Supreme Court in ***The State of Punjab v. Jasbir Singh*** dated 15th September, 2022, which affirms the position taken in ***Pritish*** case (*supra*).
5. A copy of the judgment has been handed up in the Court, the same may be filed on record of this Court before the next date of hearing.
6. List on 06th September, 2024.
7. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JULY 18, 2024/RK