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

+ CRL.M.C.5749/2024, CRL.M.A. 21939/2024, CRL.M.A. 21940/2024
& CRL.M.A. 21941/2024
TABISH KHAN & ORS.Petitioners

Through: Mr. Imran Ali, Ms. Aanchal,
Mr. Deepak Srivastav, Ms. Mandhrini
Sharma & Ms. Rachna Saxena,
Advocates

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Hitesh Vali. APP for the State
with Mr. Deepaknkar Kataria,
Advocate
SI Anil Kumar PS Jamia Nagar

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **29.07.2024**

1. This petition is filed seeking setting aside of order dated 10th April 2023 passed by the Metropolitan Magistrate, South-East District, Saket Courts, New Delhi, in Cr. Case No. 23158/2019.
2. The petitioners are family members of one Danish Khan who was married to complainant Sadaf Khan. A complaint was filed by Sadaf Khan under Sections 498-A/406 IPC against her husband and petitioners herein, for which an FIR No.959/2016 was registered at Police Station Jamia Nagar. Sadaf Khan and Mr. Danish Khan divorced in 2019. Petitioners were not charge-sheeted by the IO and were kept in Column 12, as no evidence against them was found.
3. Counsel for petitioner draws attention to the charge-sheet wherein a Delhi residence was alleged by the complainant where certain offences occurred. However there was no any proof or specification of the said Delhi



address provided by Sadaf Khan.

4. Petitioners' counsel states that it is evident from the record that all the petitioners reside in Azamgarh and never lived in Delhi. Further, the charge-sheet itself notes that while Danish Khan was working at Sector 16, Noida, Kasib Khan, the brother-in-law of complainant, was at Jhansi and Tabish Khan, the other brother-in-law of complainant, was working as a Teacher at Shanti Niketan. Petitioners' counsel states that, in these circumstances, summoning order ought not to have been passed.

5. On a prior occasion, this Court disposed off Crl.M.C. 5265/2022 on 14th October 2022, setting aside the summoning orders with directions to the Trial Court to re-consider the issue of summoning on the basis of charge-sheet to be filed afresh.

6. Accordingly, in these facts and circumstances, notice be issued.

7. APP for the State accepts notice who shall file a status report in this regard before the next date of hearing. APP for the State however states that there are specific allegations against the petitioners, made by the complainant, and hence summoning had been done.

8. The IO shall intimate the complainant of the pendency of this petition.

9. Counsel for petitioner seeks liberty to file certified copy of the charge-sheet; allowed. Same be filed before the next date of hearing.

10. List on 20th September 2024.

11. Operation of impugned order shall remain stayed till the next date of hearing.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JULY 29, 2024/sm