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

+ **CRL.M.C. 8979/2025**

SHRI SHIVAM TYAGI

.....Petitioner

Through: Mr. Ashwin Vaish, Mr. Rajat Pawa,
Ms. Shubhi V., Ms. Yashaswi Dasari,
Mr. Uttam Pawar and Mr. Aaditya
Sharma, Advs.

versus

SHRI SHIVAM BHAGAT

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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16.12.2025

CRL.M.A. 37544/2025 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

CRL.M.A. 37543/2025

4. The Petitioner, an accused has been summoned for the offence punishable under Section 500 of the Indian Penal Code, 1860,¹ on a complaint filed by the Respondent under Section 200 of the Code of Criminal Procedure, 1973.²
5. The Petitioner assails the orders dated 18th October, 2023 and 26th

¹ "IPC"

² "Cr.P.C."



October, 2023 passed by the Judicial Magistrate First Class-07, South-East District, Saket Courts, New Delhi in CT Case No. 1269/2023 titled “***Shivam Bhagat v. Shivam Tyagi***”, whereby the Trial Court accepted the pre-summoning evidence by way of affidavits and issued summons to the Petitioner.

6. In the impugned order, the Trial Court has observed that there was no requirement to summon the complainant’s witnesses for recording their statements separately and, accordingly, proceeded to treat the affidavits of CW-1 (the complainant) and CW-2 as pre-summoning evidence.

7. It is urged that the aforementioned procedure is contrary to the mandate of Section 200 Cr.P.C., which contemplates examination of the complainant and witnesses upon oath, and does not envisage acceptance of affidavits in lieu of such examination.

8. In support of this contention, reliance is placed on decisions of various High Courts, wherein it has been held that affidavits cannot partake the character of the statement on oath required to be recorded under Section 200 Cr.P.C.

9. It is further contended that the Trial Court appears to have proceeded on an erroneous premise, possibly under the impression that the procedure applicable to complaints under the Negotiable Instruments Act, 1881, where evidence on affidavit is statutorily permitted, would equally apply to complaints alleging offences under Section 500 IPC filed under Section 200 Cr.P.C.

10. It is submitted that no contrary view has been taken by any other High Court on this issue and, therefore, it is urged that the proceedings stand vitiated on account of adoption of an impermissible procedure at the pre-



summoning stage.

11. Having regard to the submissions advanced and the issue raised, which requires consideration, the proceedings before the Trial Court in CT Case No. 1269/2023 titled “***Shivam Bhagat v. Shivam Tyagi***”, shall remain stayed till the next date of hearing.

12. List on 2nd March, 2026.

SANJEEV NARULA, J

DECEMBER 16, 2025/ng