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

+ CRL.M.C. 1596/2023

BHAVISHA SHARMA

..... Petitioner

Through: Mr. Arvind Kr Gupta, Mr. Rishi
Bharadwaj, Mr. Shivank and Mr.
Abhiesumat, Advocates

versus

MANISH SHARMA

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

16.10.2023

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[The proceeding has been conducted through Hybrid mode]

CRL.M.A. 28188/2023

1. This is an application under Section 482 Cr.P.C., 1973 seeking to place on record the fresh address of the respondent-Manish Sharma, disclosing his Canadian address as also to take the amended Memo of Parties on record.

2. For the reasons stated therein, the application is allowed.

3. The amended Memo of Parties is taken on record.

4. The application stands disposed of.

CRL.M.A. 28234/2023

5. This is an application under Section 482 Cr.P.C., 1973 seeking to effect service upon the respondent on the fresh address furnished by

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the applicant/petitioner, through Ministry of Home Affairs, Government of India.

6. *Vide* letter dated 11.02.2009, Government of India, Ministry of Home Affairs had drafted Comprehensive guidelines regarding service of summons/notices/judicial process on the persons residing abroad. The guidelines as such, particularly, para 3 whereof of the comprehensive guidelines No. 25016/17/2007-Legal Cell, is extracted as under:-

“3. Based on the experience gained, some guidelines are given below which may be followed while making a request to MHA for service of judicial processes. It may, however, be noted that it is the discretion of the requested country to serve the documents and any time frame for a positive response cannot be predicted.

a) All requests for service of summons/notices/judicial processes on persons residing abroad shall be addressed to the Under Secretary(Legal), IS-II Division, Ministry of Home Affairs, 9th Floor, Lok Nayak Bhawan, New Delhi- 110003. All requests shall be forwarded through post only with a covering letter from the Registrar/Court official giving the following information:

a) Material facts of the criminal matter including purpose of the request and the nature of the assistance sought.

b) The offences alleged to have been committed, a copy of the applicable laws and maximum penalties for these offence.

c) Name, designation, telephone and fax number of the person/ officer who will be able to give any clarification, if required.



d) The complete address of the issuing authority to which the judicial papers/service reports may be returned.

e) Approval of the competent authority to bear any expenditure, which they be charged by the foreign government/ agency for the service of the documents.

f) Degree of confidentiality required and the reasons therefore (in case of confidentiality requirement).

g) Any time limit within which the request should be executed. This will be subject to allowance of sufficient margin of time by the requesting agency, as indicated in para 3(iv) of the guidelines.

b) MHA, on receipt of request, will examine it in view of the provisions of treaty, if exists, with the requested country and as per the provision of CrPC in case of non-treaty country.

c) India has a MLAT with Singapore and the Govt. of Singapore has prescribed a proforma which shall be completely filled and sent alongwith the request for service of judicial documents.

d) MHA requires at least a period of 12 weeks times for service of such notices in the concerned countries. It is, therefore imperative that a date of hearing/appearance may be decided accordingly.

e) In the case of non English speaking countries, the notices should be accompanied with the certified/authenticated translation (in duplicate) in the official language of the country where the notice is proposed to be served.



f) Name and address of the individual/ organization should be complete in all respect and PO BOX no. and Passport no. will not suffice as address of the individual.

g) Ministry of Home Affairs responsibility to service the summons is only in Criminal Matters. Hence, summons in Criminal matters only may be sent to the Ministry for service abroad.

h) MHA does not undertake service of the non-bailable warrants of arrest. The service of non-bailable arrest warrants amounts to the extradition of the individual. The request for extradition are based on certain legal procedures contained in applicable treaties negotiated on the basis of the International Principle of Extradition. Such requests are to be forwarded to the Ministry of External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi- 110001.”

7. Accordingly, as an alternate mode, the Registry is directed to take appropriate steps to effect service upon respondent, in deference of the guidelines as stated above, returnable on the date already fixed, i.e., 12.01.2024.

8. The application stands disposed of.

TUSHAR RAO GEDELA, J

OCTOBER 16, 2023

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