



2026:DHC:7104



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: August 12, 2026

% *Pronounced on: August 24, 2026*

CNR No. DLHC010146722026

+ CRL.M.C. 2712/2026, CRL.M.A. 10991/2026

ARVIND MALIK

.....Petitioner

Through: Mr. Avi Singh, Sr. Adv. with Mr.
Bharat Monga and Mr. Pushpender,
Advs.

Versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP with Ms.
Upasna Bakshi, Ms. Divya Bakshi
and Mr. Aditya Vikram Singh, Advs.
SI-Vipin Kumar PS: Mukherjee
Nagar

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present petition under *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, the petitioner seeks quashing of FIR No.407/2019 dated 14.09.2019 registered at P.S. Mukherjee Nagar, Delhi under *Section 188* of the Indian Penal Code, 1860², along with all proceedings emanating therefrom, including the summoning order dated 28.10.2021 and the order dated 12.07.2023 passed by the learned ACMM, North, Rohini Courts, Delhi³ framing charge against the petitioner.

¹ Hereinafter referred to as “BNSS”

² Hereinafter referred to as “IPC”

³ Hereinafter referred to as “Trial Court”



2. *Succinctly put*, on 05.07.2019, the Assistant Commissioner of Police, Sub-Division, Model Town, Delhi⁴, in exercise of powers under *Section 144* of the Code of Criminal Procedure, 1973⁵, read with Government of India, Ministry of Home Affairs, New Delhi Notification No.11036/1/2008 UTI dated 31.10.2008 and Notification No.11036/2010 dated 09.09.2010, passed an order that no landlord/ owner/ person of any house/ property falling within the jurisdiction of the Police Stations specified in the schedule appended thereto shall let/ sublet/ rent out any accommodation to any person unless and until the particulars of the tenant were furnished to the concerned Station House Officer of the Police Station⁶ concerned.

3. On 14.09.2019, when the police officials from PS Mukherjee Nagar visited property bearing H.No.1395, Ground Floor, Mukherjee Nagar, Delhi⁷ to carry out tenant verification, they met two girls, namely, Ms. Vaishali D/o Sh. Manu Sunar and Ms. Ratna Kumari D/o Sh. Bimal Kumar Jha, who, upon interrogation disclosed that they were residing in the said premises as tenants and that they had handed over their verification documents to the petitioner. Thereafter, when the petitioner arrived at the spot, he, upon inquiry, *allegedly* admitted the said two girls/ occupants as his tenants and whose police verification had not been carried out. On the basis thereof, the present FIR under *Section 188* of the IPC came to be registered against the petitioner for contravening the aforesaid order dated 05.07.2019 passed by the ACP.

⁴ Hereinafter referred to as “ACP”

⁵ Hereinafter referred to as “CrPC”

⁶ Hereinafter referred to as “PS”

⁷ Hereinafter referred to as “premises”



4. Subsequently after investigation, the Investigating Officer filed charge sheet before the learned Trial Court, *albeit*, without any written complaint by the ACP as required under *Section 195* of the CrPC. The learned Trial Court took cognizance thereon on 28.10.2021 and eventually framed charges against the petitioner under *Section 188* of the IPC *vide* order dated 12.07.2023.

5. Aggrieved by the aforesaid FIR as also the summoning order dated 28.10.2021 and the order dated 12.07.2023 passed by the learned Trial Court framing charges against the petitioner, the petitioner preferred the present petition before this Court.

6. When the present petition was last listed on 10.04.2026 before this Court, learned senior counsel appearing for the petitioner submitted that the petitioner seeks quashing of the present FIR only. As such, none of the other reliefs sought *qua* summoning order dated 28.10.2021 and the order dated 12.07.2023 framing charge against the petitioner are being pressed by the petitioner herein.

7. In the aforesaid backdrop, learned senior counsel for the petitioner submitted that the present FIR has been registered against the petitioner based on wrong assumption that he was/ is the owner/ landlord of the premises, as the said fact had neither been verified by the Investigating Officer prior to registration of the FIR nor during investigation. The learned senior counsel submitted that even no title documents, tenancy records, or ownership details were examined and the present FIR and the subsequent charge sheet were filed solely on the basis of oral statements.

8. Learned senior counsel further submitted that the learned Trial Court mechanically issued summons to the petitioner and then also took



cognizance of the offence alleged in the present case under *Section 188* of the IPC. However, as per *Section 195(1)(a)(i)* of the CrPC, there is an absolute bar on the Court to take cognizance of such an offence except upon a written complaint by the concerned public servant or a public servant to whom he is administratively subordinate, which, admittedly is missing herein as no such complaint was filed either prior to registration of FIR or along with the chargesheet or any time before the cognizance was taken by the learned Trial Court. Therefore, the FIR *per se* cannot sustain.

9. *Per contra*, drawing attention of this Court to the content of the FIR, learned APP for the State submitted that the petitioner *categorically* admitted that the two occupants were his tenants and whose police verification had not been carried out. Therefore, the petitioner had contravened the order dated 05.07.2019 passed by the ACP.

10. This Court has heard learned senior counsel for the petitioner as also learned APP as also perused the materials on record.

11. In view of the statement made by learned senior counsel for the petitioner on 10.04.2026, this Court is proceeding to deal with the issue of quashing of the present FIR only.

12. It is trite that power of this Court under *Section 482* of the CrPC/ *Section 528* of the BNSS to quash an FIR/ criminal proceeding is very limited and its inherent/ extraordinary power to quash FIR/ criminal proceedings has to be exercised sparingly in rarest of the rare cases. Reliance in this regard be made to ***State of Haryana v. Bhajan Lal***⁸, wherein the Hon'ble Supreme Court laid down as under:

⁸ 1992 Supp (1) SCC 335



“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a



just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

[Emphasis Supplied]

13. In the present case, the case of the prosecution wholly rests upon the order dated 05.07.2019 passed by the ACP, which reads as under:-

“Whereas reports have been received that due to the situations prevailing in the areas of Police Station as specified in the schedule in this order. It is apprehended that terrorist / antisocial elements may seek hideout in the residential area of the said police station and there is every likely hood of breach of peace and disturbance of public tranquility and also there is grave danger to human life and safety and damage of public property on that account.

*Now, therefore, I Ajay Kumar Asst. Commissioner of Police of Sub Division Model Town, Delhi of North, North West Delhi in exercise of the powers conferred upon me in section 144 of code of criminal procedure 1973 by clause (ii) of section (I) of the provisions of the Delhi Police Act 1978(3f of 1978) read with government of India, Ministry of home affairs, New Delhi's Notification no. 11036/1/2008 UTI, dated 31.10.2008 and further delegate to the undersigned vide govt. of India, Ministry of home affairs, New Delhi's notification no. 11036/2010 dated 09.09.10 do hereby order **that no landlord/ owner/ person of any house/ property which falls under the jurisdiction of area of Police Station***



as specified in the schedule appended to this order, shall let/sublet/rent out any accommodation to any persons unless and until he has furnished the particulars of the said tenants as specified Performa in the station house officer of the police station concerned. All persons who intend to take accommodation on rent shall inform in writing in this regard to the station house officer concerned in which jurisdiction the premises falls. The person dealing in property business shall also inform in writing to the station house officer concerned in whose jurisdiction the premises fall about the particulars of the said tenants.

This order shall come into force with effect from 05.07.2019 and shall be effective for a period of 60 days up to 02.09.2019 (both days inclusive) unless withdrawn earlier.

Any person contravening this order shall be punishable under section 188 of the Indian Penal Code.

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XXX ”

[Emphasis Supplied]

14. What clearly entails therefrom is that the said order dated 05.07.2019 was operative only for a limited period of 60 days, commencing from 05.07.2019 and ending on 02.09.2019 (both days inclusive) and governed only those tenancies which came into existence during the said period. Therefore, the same cannot be read to govern tenancies which had already come into existence prior to the date on which the order came into force.

15. In any event, the said order dated 05.07.2019 cannot be given retrospective effect as it was passed by the ACP in exercise of Section 144 of the CrPC and was preventive in nature.

16. In these circumstances, it is significant to note the recordings in the present FIR, which reads as under:-

“... निवेदन है कि मन HC मयहमराही Const. Nitin No 1361/NW बराये इंसदाद जुलाईम Beat No 1 इलाका गस्त में



मौजूद थे। जो बाहुकम सीनियर अफसरान बराये Tenant Verification हम दोनों गस्त करते हुए समय करीब 3.00 बजे दिन H. No 1395 Ground Floor, Mukherjee Nagar, Delhi पर पहुँचे। जहाँ पर दो लडकी मुलाकी हुई। जिनका नाम पता बाद दरियाफ्त Vaishali D/o Sh. Manu Sunar R/o IIIrd Mile Upper Shillong, Meghalya, Age 24 Years व Ratna Kumari D/o Sh. Bimal Kumar Jha R/o H. No 6, Gali No 11, Dheeraj Nagar, Faridabadm, Haryana, Age 20 Years मालुम हुआ। जिन्होंने पूछताछ पर बतलाया कि हम दोनों करीब चार महीने से यहाँ H. No 1395, Ground Floor, Mukherjee Nagar, Delhi पर एक कमरा किराये पर लेकर कोचिंग कर रही हैं। और हमने अपनी Police Verification के सत्यापन के लिये अपने कागजात उपरोक्त मकान के मालिक अरविन्द मलिक को दे दिये हैं। जो सी समय Arvind Malik S/o Sh. Umed Singh Malik R/o Flat No 164 IIIrd Floor, SFS Flats, Mukherjee Nagar, Delhi, Age 25 Years जो नाम पता बाद दरियाफ्त मालुम हुआ है। मौका पर आया। मन HC ने अरविन्द मलिक से उसके किरायेदारों के पुलिस सत्यापन के बारे में पूछा जिसने बतलाया कि वैशाली सुनार व रतना कुमारी मेरी किरायेदार हैं और मैंने उनका अभी तक Police Verification नहीं कराया है। और न ही मेरे पास उनकी पुलिस सत्यापन की कोई रसीद है। जो मकान 1395 के मालिक अरविन्द मलिक पता उपरोक्त ने अपने किरायेदारों का पुलिस सत्यापन ना कराकर ACP Subdivision Model Town साहब द्वारा जारी Notification No U11036/1/2008UTI, Dated 31.10.2008 & 8075-8174 ACP/Model Town/North-West, Delhi, Dated 02.09.2019 का उल्लंघन करके इर्तकाब जुर्म U/S 188 IPC का किया है।”

[Emphasis Supplied]

17. As categorically reflected therefrom, on the date when the police inspection was made at the premises i.e., on 14.09.2019, the two girls/ occupants were already residing therein for approximately four months.



18. Thus, the alleged tenancy had already commenced prior to the issuance of the order dated 05.07.2019. Resultantly, the said order dated 05.07.2019 cannot be made retrospectively applicable to the *alleged* tenancy, which had already commenced prior thereto.

19. Accordingly, the inspection conducted on 14.09.2019, cannot be constituted an act of disobedience of the said order dated 05.07.2019.

20. Though, in view of the statement made by learned senior counsel for the petitioner on 10.04.2026, and since this Court is dealing only with the issue of quashing of the present FIR, it is not relevant, however, this Court also finds that even in the charge sheet, reliance is placed solely upon the order dated 05.07.2019 as the sole basis of the alleged offence under *Section 188* of the IPC.

21. *Ergo*, in the considered opinion of this Court since no offence under *Section 188* of the IPC is made out, the present FIR No.407/2019 dated 14.09.2019 registered at PS Mukherjee Nagar, Delhi, along with all proceedings emanating therefrom, is quashed.

22. Accordingly, the present petition along with the pending application is allowed and disposed of.

SAURABH BANERJEE, J.

AUGUST 24, 2026/Ab/GA