



2026:DHC:7279



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: August 03, 2026
Pronounced on: August 31, 2026

CNR No. DLHC010089862026

+ CRL.M.C. 1858/2026

SUNITA

.....Petitioner

Through: Mr. Raja Choudhary and Ms.
Anushika Mishra, Advocates

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for the
State with Ms. Vanshika Singh and
Mr. Bhanu Pratap Singh, Advocates
with Insp. R. Srinivasan, Vigilance

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.08/2025 dated 10.06.2025 registered at Police Station² Vigilance, Delhi under *Section 7* of the Prevention of Corruption Act, 1988³ read with *Section 61(2)* of the Bharatiya Nyaya Sanhita, 2023⁴ and all consequential proceedings arising therefrom *qua* her.

2. *Succinctly put*, the brother of the complainant lodged a case at PS Govind Puri against the complainant and his family members. When the complainant, along with his family members, went to meet the

¹ Hereinafter referred to as "*BNSS*"

² Hereinafter referred to as "*PS*"

³ Hereinafter referred to as "*PC Act*"

⁴ Hereinafter referred to as "*BNS*"



Investigating Officer ASI Sushil Sharma⁵, at PS Govind Puri on 07.06.2025, he demanded a sum of Rs.50,000/- from the complainant for removing the names of his minor daughters. Upon the complainant expressing his inability to pay the said amount, he reduced the demand to Rs.10,000/-.

3. Thereafter, as per instructions of co-accused ASI Sushil Sharma, the complainant handed over a sum of Rs.5,000/- of the total demanded amount to the petitioner herein, who was running a tea stall near the gate of PS Govind Puri.

4. Subsequently, the complainant lodged a complaint at PS Vigilance against the co-accused ASI Sushil Sharma, after which a trap was laid.

5. During the trap proceedings, the complainant handed over the tainted currency notes to the petitioner at her tea stall, who then entered the PS and handed over the said currency notes to co-accused ASI. Thereafter, the raiding team in presence of *panch* witnesses recovered the same currency notes from the possession of the co-accused ASI.

6. Based on these facts, the present FIR was registered against the co-accused ASI and the petitioner herein.

7. The petitioner herein seeks quashing of the aforesaid FIR and all the consequential proceedings arising therefrom *qua* her.

8. At the outset, learned counsel for petitioner submitted that the petitioner does not fall within the definition of a '*public servant*' under the PC Act, and that she is a divorcee operating a small tea stall outside PS

⁵ Hereinafter referred to as "*co-accused ASI*"



Govind Puri and has no connection with the police department nor has any authority to influence the outcome of any criminal case.

9. Drawing attention of this Court to the contents of the FIR, learned counsel for petitioner submitted that the alleged demand of illegal gratification originated exclusively from the co-accused ASI, and that there is no allegation whatsoever that the petitioner had either initiated and/ or participated in the demand for illegal gratification. As such, since demand of illegal gratification is the *sine qua non* for establishing an offence under *Section 7* of the PC Act *qua* the petitioner, the whole prosecution case against her cannot sustain. Learned counsel for the petitioner has relied upon the decision of Hon'ble High Court of Karnataka in Criminal Petition No.204/2024 entitled "*Mr. Murali Krishna R. v. State of Karnataka*".

10. Learned counsel then submitted that since the case of the prosecution rests upon the trap proceedings which led to recovery of Rs.5,000/- from the co-accused ASI, which was handed over by the petitioner, which, at best, indicates passive physical act which by itself does not constitute an offence inasmuch as the petitioner was lacking the requisite *mens rea* since she had no prior knowledge that the money handed over by the complainant constitutes illegal gratification.

11. Learned counsel further submitted that the essential ingredients of criminal conspiracy under *Section 61(2)* of the BNS are not made out against the petitioner as there is no material to suggest any prior agreement between the petitioner and the co-accused ASI.

12. *Per contra*, learned APP submitted that the material collected during investigation establishes that the petitioner was actively involved in the alleged offence. The petitioner was working as a conduit on behalf of the



co-accused ASI in a pre-planned manner. The learned APP also handed over the Status Report, which is taken on record.

13. Learned APP further submitted that the CDR analysis also shows that the petitioner was telephonically in touch with the co-accused ASI *four times* on 07.06.2025 i.e. when the complainant first gave Rs.5,000/-, and *three times* on the date of trap i.e. 10.06.2025. The learned APP further submitted that the CCTV footage, audio recording and the statement of the complainant recorded under *Section 183* of the BNSS also corroborate the case of the prosecution.

14. This Court has heard learned counsel for the petitioner and learned APP, as also gone through the materials on record.

15. Quashing an FIR under *Section 528* of the BNSS/ *Section 482* of the Code of Criminal Procedure, 1973 is an extraordinary and discretionary remedy, to be exercised sparingly and with great circumspection only whence the allegations in the FIR, even if taken at their face value and accepted in entirety, do not *prima facie* disclose the commission of a cognizable offence against the accused. While doing so, this Court is not to conduct a mini-trial by sifting through the evidence, assessing probabilities, and/ or weighing the credibility of witnesses, as these are all matters of trial. In fact, the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***⁶ delineated the categories wherein quashing of FIR can be sought as under:-

“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

⁶ 1992 Supp (1) SCC 335



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.”

16. Regarding essential ingredients of Section 7 of the PC Act being absent *qua* the petitioner, it cannot be ignored that the present FIR is also registered under Section 61(2) of the BNS alleging criminal conspiracy. Thus, the allegations therein against the petitioner, have to be considered in their entirety.

17. Regarding the petitioner being privy to the whole act, the present FIR reads as under:-

“... ..मुझे ASI सुशील ने कहा कि रिश्वत की रकम थाने के गेट से निकलकर दाईं तरफ एक चाय वाली औरत ने चाय की रेहेड़ी लगा रखी है उसको पैसे दे दो। उस समय मेरे पास रुपये 5000/- जब मैं थे सो मैंने रेहेड़ी पर जाकर उस चाय वाली औरत को रुपये 5000/- नकद दिये। उन पैसे को गिनकर उस औरत ने कहा की यह तो दस हजार नहीं हैं पाँच हजार है। फिर मैंने कहा कि अभी हम 5000 रुपए दे रहे हैं 5000/- बाद में दे देंगे। इस बात पर उस औरत ने अपने मोबाइल फोन से ASI सुशील को फोन मिलाया और कहा कि 5000/- रुपए आ गए हैं।

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जो शिकायतकर्ता Gurdeep Singh थाने के बाहर चाय की ठेली पर पहुंचा जहाँ पर चायवाली लड़की Sunita से बात करी और जो Sunita ने अपने मोबाइल फ़ोन से ASI Sushil से बात करके शिकायतकर्ता



गुरदीप सिंह से ASI Sushil कि बात करवाई जो बात करने के बाद ASI Sushil ने कहा कि मैं चाय वाली ठेली के पास ही आ रहा हूँ इसके बाद ASI Sushil थाने के बाहर आया और शिकायतकर्ता गुरदीप सिंह से बातचीत करने लगा और रिश्वत के पैसे चाय वाली लड़की सुनीता को देने के लिए कहा और वापिस थाने में आकर Women Help Desk/Public Facilitation Room में आकर बैठ गया | जो शिकायतकर्ता ने ASI Sushil के मांगने पर और उसके कहने पर रिश्वत की रकम के Rs. 5000/- (500-500 Rs. के 10 नोट) जिनकी details रेड रिपोर्ट में दर्ज है, चाय वाली लड़की सुनीता को दे दिए | जो सुनीता ने रिश्वत की रकम के 5000 रुपये पहनी हुई lower पैंट की बायीं जेब में रख लिए और चाय देने के बहाने थाने के अन्दर जाकर मंदिर के साथ ही बने कमरे में ASI Sushil को दे दिए

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जिस पर मन Insp. मय रेडिंग पार्टी ने थाना गोविन्दपुरी के बाहर चाय की ठेली पर मौजूद लड़की जिसका नाम पता बाद पूछताछ सुनीता D/o राम जी गिरी R/o Om Enclave , Gali No 5, Badarpur, new Delhi मालूम हुआ को काबू किया .At this time, it is lodged that a Tehrir prepared by Insp. kusum Dangi No. D-I/287 (PIS No. 16990003) has been received to SI/DO PS/Vigilance through HC Ramesh No.147/VIG for registration of FIR. From the contents of Tehrir a case u/s 7 Prevention of Corruption Act, 1988 (Amended in the year of 2018) and u/s 61(2) BNS 2023, is made out against ASI Sushil Sharma and of PS Govind puri ,South East, District- South East, Delhi. Accordingly, a case FIR no. 08/2025 is registered, u/s 7 Prevention of Corruption Act, 1988 (Amended in the year of 2018) and u/s 61(2) BNS 2023 and further investigation of the case is handed over to Insp. R.Srinivasan No D1/105 (PIS No. 16960230) by the order of senior officers. Copy of FIR is being sent to Spl. Judge POC, Act and senior Officers through special messenger. SI/DO जिसने पूछताछ पर बतलाया कि उसने ASI Sushil के कहने पर शिकायतकर्ता गुरदीप सिंह से रिश्वती रकम के 5000/- रुपये प्राप्त किये थे | जो उसने 3 दिन



पहले भी गुरदीप सिंह से ASI Sushil के कहने पर रिश्वती रकम के 5000/- रुपये लेकर ASI Sushil को दिए थे। जो आज शिकायतकर्ता से रुपये लेकर उसने थाने के अन्दर जाकर पैसे ASI Sushil को मंदिर के पास वाले कमरे में दे दिए हैं और ASI Sushil कि तुरंत तलाशी लेने पर रिश्वती रकम बरामद कि जा सकती है”

[Emphasis supplied]

18. The above reflects that the FIR specifically records that on 07.06.2025 when the complainant first gave Rs.5,000/- to the petitioner, she immediately after counting remarked that “... यह तो दस हजार नहीं है पाँच हजार है... ” and thereafter contacted co-accused ASI to inform him that Rs.5,000/- had been received.

19. Further, on the date of the trap also, the petitioner herself contacted the co-accused ASI, when the complainant reached her tea stall, whereafter the said ASI came to the tea stall and instructed the complainant to hand over the money to her. After receiving the money, the petitioner went inside the Police Station and handed it over to ASI, from whose possession the amount was ultimately recovered.

20. The aforesaid chain of events when considered cumulatively reveals that the petitioner was not a fly by night innocent operator, and she was privy to everything and she received the money on behalf of the co-accused ASI as his intermediary/ conduit. This, *prima facie*, indicates that the petitioner was aware of everything.

21. Consequently, under such circumstances, it cannot be ruled out that the petitioner was involved in the conspiracy along with co-accused ASI.

22. In any event, it is well-settled that a criminal conspiracy, by its very nature, is ordinarily hatched in secrecy and may have to be inferred from



the surrounding circumstances and the conduct of the persons involved. The prosecution, in this regard, is not required to demonstrate a direct evidence, i.e. precise point in time when the alleged agreement or meeting of minds took place, as the same are matters of trial.

23. *Additionally*, though the CDR analysis have to be weighed during trial, however, it shows that the petitioner was in regular touch with the co-accused ASI around the same time when the complainant came to her. There is also the statement of the complainant under *Section 183* of the BNSS which speaks for itself.

24. Thus, reliance placed by learned counsel for the petitioner to **Mr. Murali Krishna R.** (*supra*) is misplaced, since FIR therein was registered only under *Section 7(a)* of the PC Act and the offence of criminal conspiracy was not involved therein.

25. As such, for the afore-stated reasons and analysis, the petitioner is not able to make out a case for quashing the present FIR, at this stage.

26. Accordingly, the present petition is dismissed.

SAURABH BANERJEE, J.

AUGUST 31, 2026/So/GA