

# Pushpa Chaudhary vs State Of Nct Of Delhi & Anr on 11 October, 2022

**Author: Anu Malhotra**

**Bench: Anu Malhotra**

\$~4

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 2046/2022 & CRL.M.A. 17711/2022  
PUSHPA CHAUDHARY

Through: Mr.Vikas Pahwa, Sr. Adv., wi  
Mr.Arshdeep Singh  
Mr.Aditya Chopra and Mr. Pra  
Ralli, Advocates

versus

STATE OF NCT OF DELHI & ANR. ....Respondents

Through: Ms. Nandita Rao, ASC for State with  
Mr.Amit Peswani, Adv. and Insp. Mr.  
Rahul Soni  
Mr. Amit Kumar & Mr. Sunil Dahiya,  
Advocates for R-2

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA  
ORDER

% 11.10.2022 The petitioner, vide the present petition has made the following prayers:-

"[A] Issue a writ or order or direction quashing the impugned FIR being FIR NO. 23/2018 dated 06.02.2018, under Section 406/ 34 IPC 1860 (Section 420/409/120B added later) P.S. Economic Offences Wing, New Delhi qua the Petitioner and all proceeding emanating therefrom; [B] Issue a writ or order or direction quashing the Final Report dated 25.11.2019 filed in FIR NO. 23/2018 dated 06.02.2018 P.S. Economic Offences Wing, New Delhi qua the Petitioner;

Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:11.10.2022 17:33:25 This file is digitally signed by PS to HMJ ANU MALHOTRA.

[C] Issue a writ or order or direction quashing the Order dated 28.11.2019 passed by the Ld. CMM, Patiala House Court taking cognizance u/S 190(1)(b) CrPC and issuing summons inter-alia to the Petitioner."

The Status Report dated 08.10.2022 under the signatures of ACP, Sector-IV, EOW, has been

submitted. Various submissions are sought to be submitted by the petitioner in relation to the aspect that the cognizance has been erroneously taken in the matter, qua which it is made expressly clear that in relation to the merits of the averments made in the petition as well as in relation to the charge-sheet filed, the Court is presently not considering the said aspects.

It is essential however, to submit that the petitioner assails the impugned cognizance taken by the learned CMM, Patiala House Courts qua the petitioner vide order dated 28.11.2019, which reads as under:

"Present: Sh. Vikas, Ld. APP for the State.

Accused persons are stated to be chargesheet without arrest.

IO SI Kulbir in person.

Heard and perused.

I take cognizance u/s 190(1)(b) Cr.PC. Issue summons to the accused persons through IO for 24.02.2020."

Inter alia, reliance is placed on behalf of the petitioner on the judgments of the Coordinate Benches of this Court in Crl.M.C.4177/2019, vide verdict dated 19.05.2022, Sanjit Bakshi v. State of NCT of Delhi and Ors. as well as in Crl.M.C.2071/2022 vide verdict dated 06.05.2022, Anil Bhalla v. The State of NCT of Delhi and Ors..

Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:11.10.2022 17:33:25 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Apparently, the impugned order dated 28.11.2019 is wholly cryptic, without any reasons and does not even mention the offences qua which cognizance has been taken by the learned Trial Court. The said order is apparently non-speaking. In the circumstances, the order dated 28.11.2019 taking cognizance against the petitioner herein in FIR No. 23/2018 dated 06.02.2018, P.S. Economic Offences Wing, New Delhi, is set aside with directions to the learned Trial Court to pass a speaking order qua the cognizance to be taken, specifying also the offences in relation to which cognizance is taken and the said aspect be considered by the learned Trial Court on 13.10.2022.

Copy of this order be sent to the learned Trial Court through the District & Sessions Judge, New Delhi.

The petition and the accompanying application are disposed of.

ANU MALHOTRA, J OCTOBER 11, 2022 s Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:11.10.2022 17:33:25 This file is digitally signed by PS to HMJ ANU MALHOTRA.