

State Govt Of Nct Of Delhi vs Sonu on 11 February, 2025

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.REV.P. 847/2015 & CRL.M.A. 18971/2015

STATE GOVT OF NCT OF DELHI

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Through: Mr. Raghuinder Verma, APP with

Yashveer Sharma, PS-Shriniva

versus

SONU

Through:

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% 11.02.2025

1. The instant revision petition under Section 397 read with Section 399 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner praying for the following relief:

"a) Call for the record of the above case from the Court of Sh.

Lokesh Kumar Sharma, ASJ-04/ Special Judge (NDPS), South East, New Delhi, in Sessions Case 15/2015, pertaining to FIR No.80/2014, P.S. Govindpuri under Section 308/341/323 r/w 34 IPC titled as "State Vs. Shiv Lai & Ors." and examine the records and the impugned Order dt. 17.09.2015.

b) Set-aside/quash the order dt. 17.09.2015 passed by the learned Additional Sessions Judge and further direct that the respondent to be charged with offence under Section 308/341/323 r/w 34 IPC a/w other co-accused who already stand charged vide the same impugned order.

c) Grant such other and further relief, as may be found just and proper under the circumstances of the case."

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2. The brief facts of the case are that one Mr. Reenu, complainant's son, along with his Mother, namely Ms. Meera, was travelling on his motorcycle to Govindpuri in order to fetch medicine. As soon as they reached the corner of Gali No. 19, Bengali Colony, one Mr. Shiv Lehari allegedly started hurling abuse on Mr. Reenu and manhandled him. When the complainant was informed about the same, he reached the spot where the said incident took place. Upon reaching the spot, the complainant and his sons were allegedly physically assaulted by the accused persons. It is also alleged in the FIR that when the respondent saw the aforesaid scuffle, he also came to the said spot where the complainant and his sons were allegedly assaulted.

3. Thereafter, the instant FIR bearing No. 80/2014 was registered at Police Station - Govindpuri, against the accused persons including the respondent, under Sections 341/323/325/308/34 of the Indian Penal Code, 1860 (hereinafter "IPC"). Subsequently, the chargesheet dated 8th February, 2014 in the instant FIR was also filed by the investigating agency, naming the respondent as one of the accused in the case.

4. Pursuant to the above, vide impugned Order dated 17th September, 2015, learned Additional Sessions Judge-04/Special Judge (NDPS), South East, New Delhi (hereinafter "ASJ"), discharged the respondent noting that there was no allegation in the instant FIR pointing towards the commission of any offence by him.

5. Being aggrieved by the said impugned order, the present revision petition has been filed on behalf of the State.

6. Mr. Raghuinder Verma, learned APP appearing on behalf of the State submitted that at the stage of framing of charge, the court may not indulge This is a digitally signed order.

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7. It is submitted that while passing the impugned order, the learned Trial Court failed to appreciate that at the stage of framing of charge, only a prima facie case pointing towards the guilt of the accused is sufficient to frame charges against him.

8. It is submitted that the learned Trial Court has failed to appreciate the statements of the wife of the complainant and his sons, in addition to that of a public witness, namely Mr. Majid, and therefore, the impugned order passed by the learned Trial Court is clearly erroneous.

9. In view of the foregoing submissions, it is prayed that the present petition may be allowed and the reliefs be granted as prayed for.

10. Heard learned APP for the State and perused the material placed on record including the impugned order.

11. Before advertng to the merits of the present case, it is important to discuss the settled position of law on the scope of the exercise of the Court's revisional jurisdiction. In the case of Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460, the Hon'ble Supreme Court held:

"12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional This is a digitally signed order.

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13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated. Even framing of charge is a much advanced stage in the proceedings under the CrPC.

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20. The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression "prevent abuse of process of any court or otherwise to secure the ends of justice", the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily...."

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12. From the above-quoted judgment, it is clear that the revisional jurisdiction of this Court has to be exercised in a limited manner. The said jurisdiction can be exercised in case of a palpable error, non-compliance with the provisions of law or when the decision involves arbitrary exercise of judicial discretion. The purpose of the exercise of the said jurisdiction is to ensure that the ends of justice are secured and there is no abuse of process of the court.

13. At this stage, it is pertinent to discuss the impugned order passed by the learned ASJ, the relevant portion of which reads as under:

"As per the contents of FIR, no allegations has been attributed to accused Sonu, who has been cited as merely a person reaching at the spot after watching quarrel between complainant and other accused persons. Hence, accused Sonu is discharged from the allegations as leveled against him, he is directed to execute a bond u/s 437-A Cr.PC to the tune of Rs. 10,000/-.

From the statements of the witnesses as well as the other material on record, prima facie there is sufficient material to frame the charges for the offences u/s 308/341/323 r/w 34 IPC against remaining accused persons namely Shiv Lal, Mukesh and Shankar.

Accordingly, the charges for the aforesaid offences framed against the accused persons to which they have pleaded not guilty and have claimed trial."

14. A bare perusal of the impugned order shows that the respondent was discharged as there was no prima facie case made out against him considering that the allegations in the instant FIR against the respondent disclose that he was merely present at the spot where the quarrel between the complainant and the other accused persons took place, which is insufficient to suggest that he was involved in the commission of any This is a digitally signed order.

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15. It is trite law that the test for framing charges is whether the material placed on record, taken at its face value, discloses the commission of an offence. If the material placed on record does not give rise to grave suspicion against the accused, the Court is justified in discharging the said accused person.

16. While advertng to the merits of the present case, it is observed that the allegations made in the instant FIR against the respondent are merely limited to the fact that on seeing the scuffle between the complainant and other accused persons, the respondent also came to the spot. Further, as per

the allegations in the instant FIR, there is no specific role assigned to the respondent in the commission of any offence.

17. This Court has also perused the statements of the wife and sons of the complainant, in addition to the statement of a public witness, namely, Mr. Majid, recorded under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC"), wherein, it is alleged that the respondent was also involved in the scuffle between the complainant and other accused persons, and had also inflicted injuries on the complainant. However, this Court, upon perusal of the aforestated statements recorded under Section 161 of the CrPC, finds that they contradict the statement of the complainant, wherein, he has alleged that role of the respondent is merely limited to the fact that he reached the spot of the said scuffle upon seeing the same.

18. Therefore, this Court is not inclined to take the view that there is grave suspicion against the respondent pointing towards the commission of any offence by him. This Court also observes that the allegations against the respondent when accepted in their entirety, do not disclose the commission This is a digitally signed order.

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19. In view of the foregoing discussion, there appears to be no infirmity in the impugned order passed by the learned ASJ. Consequently, there exist no circumstances that warrant the interference with the impugned order by this Court in exercise of its revisional jurisdiction. In light of the same, the impugned order dated 17th September, 2015 passed by the learned ASJ in SC No. 15/2015, in FIR No. 80/2014 registered at Police Station - Govindpuri, is, hereby, upheld.

20. Accordingly, the present petition is dismissed. Pending application(s), if any, stands disposed of.

CHANDRA DHARI SINGH, J FEBRUARY 11, 2025 NA/st/ryp Click here to check corrigendum, if any This is a digitally signed order.

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