

# Vikas Rana vs The State Nct Of Delhi And Ors. on 2 April, 2025

**Author: Manmeet Pritam Singh Arora**

**Bench: Manmeet Pritam Singh Arora**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 6th

Date of Decision:

+ W.P.(CRL) 1940/2024 & CRL.M.A. 18897/2024

VIKAS RANA

Through: Mr. Sameer Chandra,  
Beniwal, Mr. Shubha  
Mr. Aryan Tomar, Ad

versus

THE STATE NCT OF DELHI AND  
ORS.

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Through: Ms. Rupali Bandhopadhy, ASC  
for the State with Mr. Abhije  
Advocates  
SI Suresh Kumar on behalf of  
Malik, PS Kapashera

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

**MANMEET PRITAM SINGH ARORA, J:**

1. This is a petition filed under Article 227 of the Constitution of India read with section 482 of Code of Criminal Procedure, ('Cr.P.C') seeking (i) setting aside of the externment order dated 08.03.2024 passed by passed by Additional Deputy Commissioner of Police-I, South West District 1 whereby an externment order was passed under Section 47 of the Delhi Police Act, 1978 (hereinafter, referred to as the 'D.P. Act') against the Petitioner externing him from the limits of NCT of Delhi for a period of two (2) year; and (ii) the order dated 15.05.2024 passed by Lieutenant Governor 2 , Delhi in Appeal No. 68/2024 whereby the period of externment was reduced to one and a half (1½) years.

2. The brief facts of the case, leading to filing of the present petition are that a show-cause notice under Section 47 read with Section 50 of the D.P. Act was issued by Respondent No. 2 on 29.09.2016 on the basis of involvement of Petitioner in five (5) FIRs registered against him under Indian Penal Code, 1860 and Arms Act, 1959

putting him to notice with respect to the proposal of his externment. During the pendency of the externment proceedings two (2) other FIRs were also registered against the Petitioner in the year 2021 and 2023, which led to issuance of supplementary notice dated 20.02.2024 to the Petitioner. In addition, the Petitioner has been characterized as Bad Character (B.C.) of Bundle-A of P.S Kapashera, Delhi. In these facts, Respondent no. 2 after hearing the Petitioner and perusing his reply to the show-cause notice considered that Petitioner is a fit person to be externed from the limits of N.C.T of Delhi for a period of two (2) years vide impugned order dated 08.03.2024, to be reckoned from after seven (7) days from the date of the order.

3. Thereafter, an appeal was preferred by the Petitioner against the said order dated 08.03.2024 under Section 51 of D.P Act before the Lieutenant Governor, NCT of Delhi ('Appellate Authority'), wherein vide order dated 15.05.2024 after reviewing the material on record the Appellate Authority upheld the order of externment. However, keeping in view that Petitioner has been acquitted in four (4) FIRs by the order of the competent court, a lenient view was taken by the Lieutenant Governor and the period of externment was reduced to one and half years (1½ ) from two (2) years.

4. The period of externment of one and half (1½ )years (reckoned from 7 days after the date of the order dated 08.03.2024), shall expire on 15.09.2025. Arguments of Petitioner

5. At the outset, learned counsel for the petitioner stated that since period of one (1) year of externment will be expiring on 15.03.2025, the Petitioner would be satisfied if the petition can be allowed by reducing the sentence to one (1) year.

5.1. On merits, learned counsel for the Petitioner stated as per Section 47 of the Delhi Police Act, 1978, no proceeding or action can be initiated under Sections 46, 47, or 48 of the D.P. Act unless the person in question has been found, on at least three occasions within the one-year period preceding the initiation of action under Section 47, to have committed or been involved in any of the acts referred to in this section. He stated that petitioner admittedly was not found involved in such acts on three occasions in the preceding year 2015-16. Therefore, the initiation of proceedings against the petitioner is not legally sustainable.

5.2. He stated that as per impugned order dated 08.03.2024 passed by Respondent No. 2 date of initiation of proceeding for externment was 29.09.2016. He stated during the period of 2014 to 2021 (7 years) Petitioner was not found involved in any unpleasant activity, which demonstrates a significant gap in any alleged misconduct, making the externment order arbitrary and unjustified.

5.3. He stated that impugned order dated 08.03.2024 wrongly records that seven cases are pending trial, whereas this is factually incorrect. He stated that the

Petitioner had been acquitted in four (4) cases as on the date of the passing of the said order. He stated that thus impugned order dated 08.03.2024 is based on misrepresentations and erroneous reasoning.

5.4. He stated that in FIR No. 219/2009, the petitioner was acquitted not due to witnesses turning hostile but because the prosecution failed to prove its case.

However, the order falsely attributes the acquittal to witness reluctance, misleadingly justifying the externment. Similarly, in FIR No. 512/2013, the petitioner is alleged to have provided a car to the main accused, yet the vehicle in question is not even registered in the petitioner's name, highlighting a lack of substantive evidence. Moreover, in another criminal case i.e., FIR No. 292/2021, a BSES official has testified that the petitioner was subjected to police brutality and later falsely implicated, indicating a pattern of police harassment. He stated that these instances collectively establish that the externment proceedings are being misused to unfairly target the petitioner, warranting the setting aside of the impugned order.

5.5. He stated that the FIRs pending against the Petitioner are not of serious offences.

#### Arguments of Respondent-State

6. Learned Additional Standing Counsel for the State stated that the impugned orders dated 08.03.2024 and 15.05.2024 record the facts and evidence which led to passing of the orders. She stated that Petitioner is classified as a Bad Character of Bundle-A of P.S.: Kapashera, Delhi. She stated that due opportunity to show cause in writing was granted to the Petitioner vide notice dated 29.09.2016 and supplementary notice dated 20.02.2024 before the impugned order dated 08.03.2024 was passed by Respondent No. 2.

6.1. She stated that during the pendency of the externment proceedings two (2) fresh FIRs were registered against the Petitioner under IPC which were registered at P.S. Kapashera and P.S. Chhawala and as recorded in the Order dated 08.03.2024 supplementary notice was issued to the Petitioner on 20.02.2024 however, Petitioner failed to submit its written reply. 6.2. She stated that in the recent FIRs one of the FIR pertains to Petitioner being part of an illegal assembly where a group of persons with a JCB came to the locality and sought to illegally demolish a building. She stated that the allegations against the Petitioner is that he was riding the JCB. 6.3. She stated that in FIR No. 336/2009 witnesses were declared hostile by prosecution. Similarly, in FIR No. 72/2013 as well the witness turned hostile. She stated that in these facts, the finding of Respondent No. 2 in the impugned order that witnesses are not coming forward to make statement in public against the Petitioner is justified. She stated that the Petitioner is a declared bad character of the area and because of these witnesses do not come forward. She states that the Petitioner was acquitted in FIR No. 143/2013 on technical grounds. She relies upon the status report filed on 27.07.2024. 6.4. She stated that trial in FIR 512/2013, FIR 292/2021 and FIR 415/2023 is pending adjudication.

6.5. She states that grounds of Sections 47(a), (b) and (c) (i) are independent of (c) (ii) (iii) and (iv). The test of habitual offender in the explanation governs sub-clause (c) (ii) (iii) and (iv) of the

provision. She relies upon the judgement of the Coordinate Bench in Rakesh Kumar v. State of NCT of Delhi<sup>3</sup>. 6.6. She stated that the impugned order dated 08.03.2024 records that several 2022:DHC:4991; Para 14 opportunities were given to the Petitioner to engage a private counsel or avail the service of legal aid counsel if he is not in a position to engage private counsel; however, on the date of final arguments though Petitioner was represented by a counsel he argued his case himself. She stated that, therefore, due process was followed by the competent authority before passing the impugned order dated 08.03.2024.

7. This Court has heard the submissions of the parties and perused the record.

8. The Supreme Court in Deepak v. State of Maharashtra<sup>4</sup> while hearing a challenge to an externment order passed under Maharashtra Police Act, 1951 held that judicial review of the externment order can be entertained on the grounds of malafide, unreasonableness or arbitrariness. The Supreme Court held that while testing the externment order the Court cannot go into the question of sufficiency of material based on which the Competent Authority has passed the externment order. The relevant portion of the order reads as under:

"12. Considering the nature of the power under Section 56, the competent authority is not expected to write a judgment containing elaborate reasons. However, the competent authority must record its subjective satisfaction of the existence of one of the grounds in sub-section (1) of Section 56 on the basis of objective material placed before it. Though the competent authority is not required to record reasons on a par with a judicial order, when challenged, the competent authority must be in a position to show the application of mind. The court while testing the order of externment cannot go into the question of sufficiency of material based on which the subjective satisfaction has been recorded. However, the court can always consider whether there existed any material on the basis of which a subjective satisfaction could have been recorded. The court can interfere when either there is no material or the relevant material has not been considered. The court cannot interfere because there is a (2023) 14 SCC 707 possibility of another view being taken. As in the case of any other administrative order, the judicial review is permissible on the grounds of mala fides, unreasonableness or arbitrariness."

('Emphasis Supplied')

9. The Petitioner contends that proceedings for externment under the D.P. Act could not have been initiated against him, as he does not qualify as a habitual committer under the Explanation provided in Section 47 of the Act. This argument, however, is not sustainable because the impugned order dated 08.03.2024 passed by Respondent No. 2 records reasons stipulated under Section 47(b) and (c)(i) of the D.P. Act, which does not stipulate the condition of the person being a habitual offender. The reliance placed by Ms. Rupali, learned ASC on Rakesh Kumar (Supra) is apposite.

10. The impugned orders record that there were five (5) FIRs against the Petitioner on the date of issuance of show cause notice dated 29.09.2016 and further two (2) FIRs were filed in the year 2021

and 2023 against the Petitioner during the pendency of the proceedings. The status report dated 27.07.2024 shows that in fact in two FIRs i.e., FIR No. 336/2009 and FIR No. 72/2013, the witnesses turned hostile and led to acquittal of the Petitioner. These facts show that material was available before the Competent Authority i.e., Respondent No. 2 before it passed the impugned order dated 08.03.2024. It is not a case where there was no material before Respondent No. 2. In this regard, reliance placed by Ms. Rupali, learned ASC on the Division Bench Judgement of Kaushalya v. State<sup>5</sup> is relevant, where the Court held that the acquittal of the Petitioner in FIRs lodged cannot be taken into consideration while passing the order under Section 47 of the D.P. Act 1987 SCC OnLine Del 265; Para 15, 17 and 19.

11. Be that as it may, the fact that the Petitioner stands acquitted in three (3) FIRs prior to issuance of the first notice dated 29.09.2016 and his subsequent acquittal in FIR No. 72/2013 has been duly considered by the Appellate Authority and it reduced the period of externment to one and a half (1½) years and therefore, the relevance of the acquittal has been given due consideration.

12. A perusal of the record shows that principles of natural justice have been duly followed before passing of the impugned orders dated 08.03.2024 and 15.05.2024. The Petitioner was given written notice under Section 50 of the D.P Act by the competent authority on 29.09.2016 and 20.02.2024 as well as oral hearing before the impugned order was passed on 08.03.2024. So also, vide Order dated 15.05.2024 the Appellate Authority i.e., Lieutenant Governor, duly considered the submissions of the Petitioner and had reduced the period of externment to one and half (1½) years.

13. In the aforementioned facts, applying the law laid down by Supreme Court in Deepak v. State of Maharashtra (supra) no grounds are made out by the Petitioner for seeking interference in the impugned orders.

14. For the aforesaid reasons, the petition is without any merits and is accordingly dismissed.

15. Pending applications also stands disposed of.

MANMEET PRITAM SINGH ARORA (JUDGE) APRIL 02, 2025/rhc/AKT