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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision : 24.8.2009

+ Crl. M.C. No.1647/2008, Crl. M.C. No.1615/2008

DINESH KHANNA

..... Petitioner

Through: Ms. Amita Kalkal,
Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1708/2008

DINESH KHANNA

..... Petitioner

Through: Nemo

Versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1750/2008

DINESH KHANNA

..... Petitioner

Through: Mr. Abhimanyu Devraj
Advocate

Versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through : Mr. Sanjeev Sabharwal,
Standing Counsel for MCD
Mr.Jaideep Malik, APP

Crl. M.C. No.1963/2008

DINESH KHANNA

..... Petitioner

Through: Ms. Amita Kalkal,
Advocate

Versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through : Mr.Jaideep Malik, APP for the State.

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08,
1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08,
1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

Crl. M.C. No.1415/2008

NARESH KUMAR SHARMA

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocates

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1416/2008, Crl. M.C. No.1417/2008

AVTAR SINGH

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1418/2008

MANOJ KUMAR

..... Petitioner

Through: Mr. Amita Kalkal,
Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1512 /2008, Crl. M.C. No.1515/2008

INDER SINGH

..... Petitioner

Through: Mr. Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1514/2008

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08,
1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08,
1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

RAJINDER SINGH

..... Petitioner

Through: Mr. Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1516/2008

VINOD SEHRAWAT

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1517/2008

PAWAN KUMAR

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1579/2008

RAVINDER TULANI

..... Petitioner

Through: Abhimanyu Devraj,
Advocate

Versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Mr.Jaideep Malik, APP

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08,
1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08,
1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

Crl. M.C. No.1709/2008, Crl. M.C. No.1710/2008, Crl. M.C. No. 1711/2008, Crl. M.C. No.1751 /2008, Crl. M.C. No.1752/2008

RAVINDER TULANI

..... Petitioner

Through: Mr. Abhimanyu Devraj
Advocate

Versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through : Mr. Sanjeev Sabharwal,
Standing Counsel for MCD
Advocate
Mr.Jaideep Malik, APP for
the State.

Crl. M.C. No.1703/2008

SURESH KUMAR

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1704/2008

JAIVEER LOHIA

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI Respondent

Through : Mr.Jaideep Malik, APP

Crl. M.C. No.1872 /2008

SATBHAN SEHRAWAT

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma, Advocate

Versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08,
1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08,
1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

Through : Mr.Jaideep Malik, APP

AND

Crl. M.C. No.1873/2008

GIAN GUPTA

..... Petitioner

Through: Mr.Sanat Kumar and
Mr.Sanjay Sharma,
Advocate

Versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through : Mr.Jaideep Malik, APP for
the State.

CORAM :

HON'BLE MR. JUSTICE V.K. SHALI

- | | | |
|----|---|-----|
| 1. | Whether Reporters of local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the Reporter or not ? | YES |
| 3. | Whether the judgment should be reported in the Digest ? | YES |

V.K. SHALI, J. (Oral)

1. This batch of petitions is for quashing of Kalandra issued against the petitioners by the local police under Section 28 read with Section 112 of the Delhi Police Act. All these matters are involving the same or somewhat similar questions of fact and law and are therefore, disposed of by one common order.
2. Broadly speaking, there are two categories of cases, though there are individual factual variation, accordingly, the result of each individual case may vary. These two broad categories of cases are, one in respect of those Kalandras

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where before the actual date of filing of Kalandra, the petitioner had applied for licence to the DCP (Licensing) (hereinafter called as 'First Category') while as the second set of cases are those cases where the petitioners have not applied to the DCP (Licensing) for grant of requisite licence before the initiation of Kalandra and has taken the plea that the application was not accepted by the DCP (Licensing) on the ground that before applying, they must obtain a 'Health Trade' licence from the MCD (hereinafter called as 'Second Category').

3. So far as the facts of the present case titled **Sh.Dinesh Khanna Vs. Government of NCT of Delhi** bearing Crl.M.C. No.1647/2008 are concerned, in this case the petitioner has prayed for quashing of Kalandra pending before the learned MM, Patiala House Courts, New Delhi under Section 28/112 of Delhi Police Act initiated vide DD No.70B dated 17.5.2007. It is alleged in the petition that the petitioner has been running a Guest House in the name and style of Hotel City Centre being operated from L-118, Mahipalpur Extension, New Delhi-110037 built up on an area of about 109 sq. yds. comprising of basement, ground floor, second floor and third floor, having nine rooms.
4. It is alleged in the petition that the Guest House was running in the name and style of Sai Transit Hotel and the

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

said Guest House is registered u/s 8 of the Luxuries Act, 1996 from 01.6.1999 and the said registration is in the name of Hotel City Centre w.e.f. 02.6.2003. It is stated that the Guest House is registered with the Delhi Tax on Luxuries Act, 1996 from 1st June, 1999 and the said registration is in the name of Hotel City Centre w.e.f. 2nd June, 2003.

5. The petitioner is praying for quashing of the Kalandra mainly on two grounds, firstly, on the ground that although the petitioner has applied for grant of licence but the said licence has not been granted by the DCP (Licensing) despite the fact that vide letter dated 11.5.2000 the then Commissioner of Police, Delhi directed the local police to maintain the status quo and not to go overboard in prosecuting the owners of guest houses who do not have such licence because the policy regarding grant of licence to the Guest House was yet to be finalized. The local police was also informed that any complaint received after issuance of the said order by the Commissioner of Police would be dealt with seriously.
6. The second ground on which the Kalandra is prayed to be quashed is that on 19.8.2002, this Court in Crl.(Misc.) Main No.3033/1998 had specifically observed that as the local police has not formulated the guidelines for grant of

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licence to the guest houses therefore, in a case where the petitioner in the said case had shown that before initiation of Kalandra he had applied for grant of licence the said Kalandra should be quashed. It was also observed that the said quashing of Kalandra and the consequent proceedings by the local police should be taken as a wake up call by the concerned authorities to formulate a policy/guideline for the purpose of grant of licence.

7. Although this order was passed on 19.8.2002 but despite the fact that more than seven years have passed till date no policy/guideline has been formulated by the respondent. This fact has been admitted by the learned APP for the State that as on date, there is no policy regarding grant of licence in question.
8. The learned APP for the State has not disputed the factum of the letter having been issued by the Commissioner of Police.
9. So far as the judgment of this Court passed on 19.8.2002 is concerned, it has been stated by the learned APP that the question of formulation of policy/guideline is still engaging the attention of the authorities although they have not been able to give it a concrete shape.

10. I have heard the learned counsel for the parties and perused the record. I have also gone through the orders passed by the learned Predecessor directing the MCD to file an affidavit giving details of policy as well as various other information pertaining to grant of licence to the Guest Houses in Delhi including urban and rural areas or unauthorized colonies keeping in view the MPD 2021. The said information is placed on record.
11. The issue as to grant of licence by the MCD and the considerations like whether the Guest Houses are in the rural or urban area, authorized or unauthorized colonies, on the road abutting the national highway or the service lane or a road which is permitted to be used for mixed land use or not, would not be relevant for the purpose of deciding as to whether the proceedings which have been initiated against the petitioners by way of Kalandra under Section 28/112 of the Delhi Police Act should continue or not, because the police is not concerned with the enforcement of provisions of the MCD Act or the Luxury Tax Act although a guest house may be required to obtain a licence under the said Acts. It is only concerned with the enforcement of penal law or the laws wherein an owner is required to obtain licence from the police authorities.

12. There is no denial of the fact that on account of multifarious local and central authorities a bonafide person who wants to run a Guest House in the City of Delhi is required to obtain licences from different authorities.
13. The question which has been raised for consideration is that in case where a petitioner is required to obtain a licence under Luxury Tax Act and the same is not done, the sanction would be provided under the said Act and that will have no bearing qua the prosecution of the offender for violating a provision of a different statute. Same would be the case when a person is required to obtain a licence under Section 417/421 of the MCD Act. If the licence under MCD Act is not obtained, the sanction is provided under Section 461 read with Section 470 of the MCD Act however, merely on account of the fact that a person does not have the licence under the MCD Act, he cannot be prosecuted under Section 28 read with Section 112 of the Delhi Police Act notwithstanding the fact that he may not have the licence granted by the DCP (Licensing). All these provisions of different statutes are operating in different fields and carry different punishments. Therefore, the submissions which were made by some of the counsel to the effect that the Guest House in question is in the unauthorized colony pending regularization or that the

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petitioner in a given case had the requisite licence from Luxury Tax department or even for that matter from MCD under the relevant statute would not exonerate or insulate the petitioner from prosecution under Section 28 read with Section 112 of the Delhi Police Act in case he does not have a requisite licence issued by the DCP (Licensing). Therefore, so far as the present batch of petitions in general are concerned, the fact of a particular petitioner having licence from Luxury Tax Department or from MCD is not relevant and the only aspect which needs to be considered is that whether he has a licence issued by the DCP (Licensing) or not.

14. Section 28 lays down that the Commissioner of Police may by notification in the official Gazette make regulations to provide for all or any of the following matters namely:-

“(x) (i) licensing or controlling places of public amusement or public entertainment;
(ii) prohibiting the keeping of places of public amusement or public entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity; and
(iii) regulating the means of entrance and exit at places of public amusement or public entertainment or assembly and providing for the maintenance of public order and the prevention of disturbance thereat;”

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

15. It is the case of the prosecution that the licence which is granted to the guest houses is under regulation for keeping places of public entertainment in the Union Territory of Delhi which are framed by the Commissioner of Police with the provisions of sanction of administrator and exercise of power under clauses (x) and 2(b) (1) of Section 28 of Delhi Police Act which came into operation w.e.f. 23.9.1982. Although the regulations for grant of licences are in place but despite this, licences are not being given by the DCP (Licensing) as is apparent from the letter dated 11.5.2000 issued by the Commissioner of Police to all his subordinate that they should maintain status quo and should not go overboard to prosecute the owners of the Guest House for violation of Section 28 read with Section 112 of the Delhi Police Act for not possessing the licence as the police itself is yet to formulate the policy/guidelines for the purpose of grant of such licence.
16. This also finds support from the judgment of the learned Single Judge of this Court in Crl.M.M. No.3033/1998 in which vide order dated 19.8.2008 the Kalandras under Section 28 read with Section 112 of the Delhi Police Act were quashed on account of the fact that the DCP (Licensing) had not issued the license although the same was applied by the parties before initiation of Kalandra.

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The observation was also made that quashing of the said Kalandra should be taken as a wakeup call to the local police to formulate the guidelines as early as possible because the absence of such a policy was becoming a source of harassment to the Guest House owners and seeking their repeated prosecution was in violation of the order dated 11.5.2002 by the Commissioner of Police. The local police does not seem to have woken up from the slumber as yet because although more than seven years have passed but the policy/guidelines are still not finalized. This fact is also not disputed by the learned APP. In such event, the only thing which the petitioner is required to show is that whether he had applied to the DCP (Licensing) for grant of licence before the date of filing of Kalandra in question. If this is shown either by way of a letter placed on record or even by an averment then obviously the Kalandra in such a case deserves to be quashed however in a case where neither such an averment is made nor the details of the application are given then in such a contingency, the Kalandra cannot be quashed although in some cases, plea was taken that any application in this regard was not being accepted by the DCP (Licensing) in the absence of a health license or a trade license having not

been given by the MCD. This plea cannot be accepted as a ground for quashing the Kalandra for two reasons:-

- a) In case the DCP refused to accept the application for grant of licence in the absence of a valid trade or health trade licence being issued by the MCD prior to the date of initiation of proceedings by way of Kalandra, nothing would have prevented such a party from filing an application by post and attach the proof thereof
- b) Secondly, this plea that the application itself was not accepted by the DCP (Licensing) for grant of licence becomes a disputed question of fact and hence Kalandra on the said disputed question of fact cannot be quashed.

17. However, even in such cases also the petitioner, if he has applied for grant of licence but has not filed the document in this Court or pleaded the said fact in the petition, still he shall be free to urge this ground before the learned Magistrate as a fact in his defence and prove it.

18. With these two broad parameters, the individual cases are considered and are being decided separately by passing separate order in each case hereinafter.

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19. So far as the petitioner in the instant case is concerned, admittedly the Kalandra has been initiated on 17.5.2007 while as the petitioner in his petition has not only made an averment but has also placed on record a photocopy of the letter having been sent to the DCP (Licensing) on 10.4.2007 for grant of licence and since the said application has not been decided by the DCP (Licensing) despite the orders of Commissioner of Police as well as the directions of the learned Single Judge in Crl.M.M. No.3033/1998, the proceedings of this case under Section 28 read with Section 112 deserve to be quashed.
20. With these directions, the present petition bearing Crl.M.C. No.1647/2008 is allowed.

Crl.M.C.No.1708/2008

1. The petitioner is running a hotel under the name and style of Hotel Metro Tower at 552, Mata Chowk, Vasant Kunj Airport Road, Mahipal Pur Extension, New Delhi-37. The owner of the guest house got duly registered with the Luxury Tax Department under Section 8 of the Delhi Tax on Luxuries Act, 1996. He had also applied for grant of licence to the DCP (licencing), Defence Colony for running a Hotel vide application dated 10.4.2007. However, despite having applied for grant of licence to the DCP (licencing) Delhi Police, the request of the petitioner for the licence was

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not apparently processed and yet the petitioner was booked u/s 28/112 of the Delhi Police Act by Kalandra vide DD entry no.32A dated 03.05.2007.

2. Since in the instant case, the petitioner had applied for grant of licence prior to the filing of Kalandra, accordingly, for the reasons stated hereinabove, in paragraphs 1 to 18, the kalandra against the present petitioner is directed to be quashed.

Crl.M.C.No.1963/2008

1. The petitioner is running a Guest House under the name and style of Sai Transit Hotel at L-118, Mahipalpur Extension, New Delhi-37 which is duly registered with the Luxury Tax Department under Section 8 of the Delhi Tax on Luxuries Act, 1996. The petitioner had also applied for grant of licence to the DCP (licencing) on 10.4.2007 for running the Guest House. However, the petitioner's request for grant of licence was not dealt with. On the contrary on 03.05.2007, the petitioner was booked u/s 28/112 of the Delhi Police Act vide Kalandra No.32A.
2. Since in the instant case, the petitioner had applied for grant of licence prior to the filing of Kalandra accordingly, for the reasons given hereinbefore, the kalandra against the petitioner is quashed.

Crl.M.C. No.1710/2008

Crl.M.C. No. 1709/2008

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

1. The petitioner is claiming himself to be the sole proprietor of a Hotel by the name and style of Hotel Night Centre operated from L-27, Mahipalpur, Extension, New Delhi-37.
2. The petitioner has not mentioned anywhere in the petition as to on what date the he had applied for grant of licence with the DCP (licencing), Delhi Police. The petitioner was challaned u/s 28/112 of the Delhi Police Act on different dates vide DD entry No.46-B dated 12.1.2007, DD entry No.38-B on 23.3.2007, DD entry No.58-B dated 14.3.2007 and DD entry no. 70-B dated 17.5.2007 for running the Guest House without having valid licence.
3. The petitioner is claiming himself to be duly registered with the Delhi Luxury Department. However, as there is neither any averment nor any prima facie proof placed on record by the petitioner to show that he had ever applied for grant of licence to the DCP (licencing) prior to the registration of kalandra accordingly, the present kalandra against the petitioner cannot be quashed. However, the petitioner shall be free to adduce the evidence before the learned Trial Court to establish that he had applied for grant of licence to the DCP (Licensing) before the registration of kalandra and if it is done then the

petitioner's case obviously will be covered by the main judgment that he cannot be prosecuted for having not obtained the licence from the DCP (Licensing).

4. With these observations, the aforesaid petition is dismissed.

Crl.M.C. No.1750/2008

Crl. M.C. No. 1751/2008

1. The petitioner is claiming himself to be the sole proprietor of a Hotel under the name and style of Hotel Night Centre operated from L-27, Mahipalpur, Extension, New Delhi-37.
2. The petitioner has not stated anywhere in the petition as to on what date the petitioner had applied for grant of licence with the DCP (licencing), Delhi Police. The petitioner was challaned u/s 28/112 of the Delhi Police Act vide Kalandra No.66-B dated 18.10.2005 and kalandra no.35-A dated 19.10.2006 for running the guest house without having valid licence.
3. The petitioner is claiming himself to be duly registered with the Delhi Luxury Tax Department. However, as there is neither any averment nor any prima facie proof placed by the petitioner on record to show that the petitioner had ever applied for grant of licence to the DCP (licencing) prior to the registration of kalandra, accordingly, the present kalandra against the petitioner cannot be quashed.

However, the petitioner shall be free to adduce the evidence

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before the learned Trial Court to establish that the petitioner had applied for grant of licence the DCP before the registration of kalandra and if it is done so, the petitioner's case obviously will be covered by the main judgment that the petitioner cannot be prosecuted for not having obtained the licence from the DCP (Licencing).

4. With these observations, the petition is dismissed.

Crl.M.C.NO.1417/2008

1. The petitioner is running a Guest House under the name and style of Avtar Guest House as one of its proprietor at N.H-8, Mahipal Pur, New Delhi-37.
2. The petitioner was booked u/s 28 r/w Section 112 of the Delhi Police Act vide DD entry Nos. 37A and 37B on 14.3.2007 and 23.3.2007 for running the Guest House without having obtained the licence from the DCP (Licencing). However, the petitioner has neither averred in the petition nor placed any evidence on record by way of a prima facie proof to show that he has ever applied to the DCP (licencing) for the grant of licence before he was booked. Therefore, the plea of the petitioner that no policy was formed by the Delhi Police for grant of licence does not come to his rescue and the proceedings which were initiated against the petitioner on the basis of kalandra in question cannot be quashed.

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3. Accordingly, the said proceedings against the petitioner cannot be quashed. However, the petitioner shall be free to adduce evidence before the learned Trial Court that it had applied for grant of licence before he was booked for violating Section 28 of the Delhi Police Act.

Crl.M.C.NO.1418/2008

1. The petitioner is running a Guest House under the name and style of M/s Lohias as one of its proprietor at N.H-8, Mahipal Pur, New Delhi-37.
2. The petitioner was booked for running the Guest House without any valid licence in the month of March and May, 2007 vide DD entry no.37B and 21A. The petitioner has not placed on record any prima facie evidence or averred in the petition that before he was booked for violating the aforesaid provision of law he had ever applied for grant of licence to the DCP (licencing). Accordingly, the present petition is totally misconceived and the proceedings against the petitioner cannot be quashed. However, the petitioner shall be free to adduce evidence before the learned Trial Court to show that he had applied for grant of licence before the registration of kalandra.

Crl.M.C.No.1416/2008

1. The petitioner is running a guest house under the name and style Dhawan Guest house as its sole proprietor at NH-

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

8, Mahipal Pur, New Delhi and was booked on 23.3.2007 and 03.5.2007 vide DD entry Nos.67B and 41B u/s 28 read with Section 112 of the Delhi Police Act for running the guest house without any valid licence. No prima facie proof has been placed on record nor it has been averred that he had applied for grant of licence before kalandra was registered.

2. Accordingly, the present petition for the reasons stated hereinabove is misconceived and the same is dismissed.

Crl.M.C.No.1415/2008

1. The petitioner is running a guest house under the name and style of M/s Paradise International as one of its partners at N.H-8, Mahipal Pur, New Delhi-37. The petitioner was booked in the month of March and May 2007 vide DD entry no.58B and 44B u/s 28/112 of the Delhi Police Act.
2. The petitioner has neither averred nor placed any prima facie proof that he had applied for grant of licence before he was booked.
3. Accordingly, the present petition is misconceived and the same is dismissed.
3. The petitioner shall be free to adduce evidence before the Court concerned that it had applied for licence before he was booked under Section 28 of the Delhi Police Act.

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

Crl.M.C.No.1873/2008

1. The petitioner is running a Guest House under the name and style of M/s Westend Inn as its sole proprietor at N.H-8, Rangpuri, New Delhi-37. The petitioner had applied for grant of licence by the DCP (licencing) on 10.12.2004. The petitioner's application for grant of licence was not decided. On the contrary, in the year, 2007, kalandra was registered against the petitioner for running the guest house without any licence on 17.5.2007 vide DD entry no.6813 u/s 28 of the Delhi Police Act is bad and is quashed because the petitioner had already applied for grant of licence to the DCP (licencing) in the year 2004. Prima facie evidence in this regard has been placed on record by the petitioner.

Crl.M.C.No.1514/2008

1. The petitioner is running a guest house under the name and style of Sheetal Guest House as a sole proprietor at N.H-8, Mahipal Pur, New Delhi-37. The petitioner was booked u/s 28 r/w Section 112 of the Delhi Police Act vide DD entry Nos. 38B, 80B, 66B and 37A by the Delhi Police Act between the period 2006-07.
2. Neither the petitioner has placed any prima facie proof on the record nor there is any averment in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the registration of the kalandra.

Crl.M.C.No.1615/2008

1. The petitioner is running a guest house under the name and style of Hotel City Centre registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide kalandra no.37-A dated 14.3.2007.
2. Since in the instant case, the petitioner had applied for grant of licence prior to the filing of Kalandra accordingly, for the reasons stated hereinabove, in paragraphs 1 to 18, the kalandra against the present petitioner is directed to be quashed.

Crl.M.C. No.1752/2008

1. The petitioner is running a guest house under the name and style of Hotel Night Stay Centre at L-27, Mahipal Pur Extension, New Delhi-37. The petitioner was booked u/s 28/112 of the Delhi Police Act vide kalandra No.32A dated 3.5.2007.
2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.

3. Accordingly, the proceeding cannot be quashed. However, the petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the same.

Crl.M.C.No.1704/2008

1. The petitioner is running a guest house under the name and style of Loh Mod as its sole proprietor at NH-8, Mahipal Pur, New Delhi-37 duly registered u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide kalandra Nos.37-B, 62-B, 57-B and 42 A dated 26.6.2007, 8.5.2007, 14.3.2007 and 23.3.2007 respectively.
2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.
3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the registration of the kalandra.

Crl.M.C.No.1512/2008

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

1. The petitioner is running a guest house under the name and style of Star as one of its partners at NH-8, Mahipal Pur, New Delhi-37 registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide kalandra Nos.28A and 38B dated 3.5.2007 and 3.12.2006.
2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.
3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the registration of kalandra.

Crl.M.C.No.1703/2008

1. The petitioner is running a guest house under the name and style of Airport Inn as its sole proprietor at NH-8, Mahipal Pur, New Delhi registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide DD entry nos.42 A, 21A, 43 B, 38B and 37B dated 15.10.2006, 23.3.2007, 13.1.2007, 1.5.2007 and 8.5.2007.

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.
3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the registration of kalandra.

Crl.M.C.No.1515/2008

1. The petitioner is running a guest house under the name and style of international Inn as one of its partners at NH-8, Mahipal Pur, New Delhi-37 registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide DD entry nos.79 A, 70 B, 40 A, 41B and 28 A dated 03.5.2007 and 19.10.2006.
2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.
3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the registration of kalandra.

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

Crl.M.C.no.1516/2008

1. The petitioner is running a guest house under the name and style of R.Blues as its sole proprietor at NH-8, Mahipal Pur, New Delhi-37 registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide DD entry nos.58B, 28A, 86B, 42 A, 41 B AND 5A dated 8.5.2007, 3.5.2007, 31.5.2005, 23.3.2007, 14.3.2007, 7-8.4.2004 and 17.1.2007.
2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.
3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the same.

Crl.M.C.No.1517/2008

1. The petitioner is running a guest house under the name and style of Surya Guest House as its sole proprietor at NH-8, Mahipal Pur, New Delhi-37 registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

Police Act vide DD entry nos.40A & 51B/57B dated 19.10.2006 and 22.7.2006.

2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28/112 of the Delhi Police Act.
3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the same.

Crl.M.C.No.1872/2008

1. The petitioner is running a guest house under the name and style of Shalimar Hotel as its sole proprietor at NH-8, Mahipal Pur, New Delhi-37 registered with the Luxury Tax Department u/s 8 of the Delhi Tax on Luxuries Act. The petitioner was booked u/s 28/112 of the Delhi Police Act vide DD entry no.46B dated 14.3.2007, 19.1.2007, 30.8.2005, 12.7.2005, 28.1.2008, 21.11.2008 and 21.11.2006.
2. The petitioner has not placed any prima facie proof in the petition that he had ever applied for grant of licence to the DCP (licencing) before he was booked u/s 28 of the Delhi Police Act.

Crl.M.C.Nos.1647/08, 1415/08, 1416/08, 1417/08, 1418/08, 1512/08, 1514/08, 1515/08, 1516/08, 1517/08, 1579/08, 1615/08, 1703/08, 1704/08, 1708/08, 1709/08, 1710/08, 1711/08, 1750/08, 1751/08, 1752/08, 1872/08, 1873/08 & 1963/08

3. Accordingly, the proceeding cannot be quashed. The petitioner is free to adduce evidence before the Court below to show that he had applied for grant of licence prior to the same.

V.K. SHALI, J.

**AUGUST 24, 2009
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