



2026:DHC:7280



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: August 18, 2026

Pronounced on: August 31, 2026

CNR No. DLHC010256942026

+ CRL.M.C. 4388/2026, CRL.M.A. 17734/2026

ALOK PRAKASH SRIVASTAVA

.....Petitioner

Through: Mr. Abhimanyu Mahajan, Sr. Adv.
with Mr. Mayank Joshi, Advs.

Versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Satish Kumar, APP for the State
with Mr. Dinesh Kumar and Mr.
Gourav Singh, Advs.
SI Hemant, HC Pawan Bhat, PS.:
Badarpur

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.585/2025 dated 13.11.2025 registered at P.S. Badarpur, New Delhi under *Section 223(a)* of the Bharatiya Nyaya Sanhita, 2023², along with all proceedings emanating therefrom.

2. *Succinctly put*, on 08.11.2025, the Assistant Commissioner of Police, Sub-Division, Badarpur, New Delhi³, in exercise of powers under *Section*

¹ Hereinafter referred to as "*BNSS*"

² Hereinafter referred to as "*BNS*"

³ Hereinafter referred to as "*ACP*"



163 of the BNSS read with Notification No.B-11036/1/2010 UTI dated 09.09.2019 issued by Government of India, Ministry of Home Affairs, New Delhi, passed an Order that no landlord/ owner/ person of any house/ property falling within the jurisdiction of the aforesaid Police Stations shall let/ sublet/ rent out any accommodation to any person unless and until the particulars of the tenant/ servants were furnished to the Station House Officer of the Police Station⁴ concerned.

3. On 13.11.2025, when the police officials from PS Badarpur were conducting servant verification at Mohan Co-operative Industrial Area, they reached Company No.B-2/3⁵, where one Ravi Kumar was found working as a guard. Upon inquiry, he disclosed that he had been working at the said premises for approximately five years and that he had submitted his verification documents to the petitioner. However, since his servant verification had not been conducted, the present FIR under *Section 223(a)* of the BNS was registered against the petitioner for contravening the aforesaid Order dated 08.11.2025 issued by the ACP.

4. Subsequently, upon completion of investigation, the Investigating Officer filed chargesheet along with written complaint dated 26.11.2025 of the ACP as prescribed under *Section 215* of the BNSS. Cognizance thereon was taken by the learned ACJM (South-East), Saket Courts, New Delhi⁶ *vide* order dated 07.01.2026 and summons were issued to the petitioner.

5. Aggrieved by registration of the aforesaid FIR and proceedings emanating therefrom, the petitioner is before this Court by way of the present petition.

⁴ Hereinafter referred to as “*PS*”

⁵ Hereinafter referred to as “*premises*”

⁶ Hereinafter referred to as “*Trial Court*”



6. At the outset, learned senior counsel for the petitioner praying for quashing of the present FIR and proceedings emanating therefrom submitted that the present FIR has been registered against the petitioner based on wrong assumption that he was/ is the owner of the premises and employer of the guard, whereas there is no material on record to establish either of these facts.

7. Learned senior counsel further submitted that, in any event, as apparent from the present FIR dated 13.11.2025 and charge sheet dated 24.11.2025, it is the case of the prosecution that the said guard had been working at the premises for approximately five years. Thus, the engagement of the security guard admittedly pre-dates the order dated 08.11.2025, which came into force only on 09.11.2025. Therefore, the alleged omission on the part of petitioner, if any, cannot constitute any disobedience. Reliance in this regard is placed upon the decision of a Co-ordinate Bench of this Court in ***Chander Bhushan v. State of NCT of Delhi***⁷.

8. Learned senior counsel then submitted that since there is nothing reflecting the communication of the Order dated 08.11.2025 issued by the ACP to the petitioner, there was no deliberate disobedience thereof by the petitioner.

9. Lastly, learned senior counsel for the petitioner submitted that reliance upon the written complaint dated 26.11.2025 allegedly under *Section 215* of the BNSS by the prosecution is misplaced as it was never

⁷ 2022 SCC OnLine Del 4879



addressed to the learned Trial Court, and further since the same was not considered by the learned Trial Court, while taking cognizance.

10. *Per contra*, learned APP submitted that it was revealed only during inquiry of servant verification that the petitioner had employed the said guard without his verification. This, according to learned APP was in violation of the Order dated 08.11.2025 issued by the ACP.

11. This Court has heard learned senior counsel for the petitioner, as also learned APP and perused the materials on record along with the case laws cited.

12. It is trite that the jurisdiction of this Court under *Section 482* of the CrPC/ *Section 528* of the BNSS to quash an FIR/ criminal proceedings is limited and its inherent/ extraordinary power are to be exercised sparingly in rarest of the rare cases. The Hon'ble Supreme Court, in ***State of Haryana v. Bhajan Lal***⁸ has delineated the categories wherein such power may be exercised, 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 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.

⁸ 1992 Supp (1) SCC 335



(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.”*

[Emphasis Supplied]



13. In the case at hand, the case of the prosecution wholly rests upon the Order dated 08.11.2025 issued by the ACP, which reads as under:-

“Whereas, reports have been received that due to the situation prevailing in the areas of Police Stations of Sub Division Badarpur, South East District, Delhi, it is apprehended that terrorist/ anti-social elements may seek hideouts in the residential areas of the said Police Stations and there is every likelihood of breach of peace and disturbance of public tranquility and also there is grave danger to human life and safety and injury to public property on that account.

And where as it is necessary that some checks should be put on landlords/ tenants/ Servants so that terrorists/ anti-social elements in the guise of tenants may not cause explosions riots, shoot outs, affray etc and that immediate action is necessary for the prevention of the same.

Now, therefore I, HARISH CHANDER, Asstt. Commissioner of Police, Sub. Division Badarpur, New Delhi, in exercise of the powers conferred by clause (b) of Sub-section (I) of the Section 70 of the Delhi Police Act, 1978 (34 of 1978) upon me under Section 163 BNSS, 1973, read with Govt, of India, Ministry of Home Affairs, New Delhi's Notification No. B-11036/1/2010-UTI, dated 09.09.2010 do hereby order that no landlords/ owner/ person of any house/property which falls under the jurisdiction of Police Stations specified above, shall let/ sublet/ rent out any accommodation to any person unless and until he has furnished the particulars of the said tenant/ servant(s) to the Station House officer of the Police Stations/ concerned. All persons who intend to take accommodation on rent shall inform in writing in this regard to the Station House Officer concerned in whose Jurisdiction the premises fall. The persons dealing in property business shall also inform in writing to the Station House Officer concerned in. whose jurisdiction the premises fall about the particulars of the said tenants/servants.



This order shall come into force with effect from 09.11.2025 and remain in force for a period of 60 days i.e. up to 07.01.2026 (both days inclusive) unless withdrawn earlier.

Any person contravening this order shall be punishable under Section 223 of the BNS... ..”

[Emphasis supplied]

14. As apparent therefrom, the said Order was only operative for a limited period of 60 days from the date of its issuance, i.e. 09.11.2025 until 07.01.2026, and thus was prospective in nature, not retrospective. As such, it was applicable only during the period in which the said Order remained in force. The said Order, therefore, cannot be given an expansive meaning to include/ govern tenancies or engagements of servants which were already in existence prior to the date of commencement of the said Order.

15. In these circumstances, it is significant to note the contents of the present FIR, which are reproduced as under :-

“... .. श्रीमानDuty Officer साहब थाना बदरपुर नई दिल्ली सरकारी कार्य के लिए निवेदन है कि मनHC मयCt Kumarpal, No 3446/SE DD NO 114 A DT. 13/11/25 से इलाका गस्त में मौजूद थे। जो समय करीब 06:05 PM पर जब मनHC मय हमराही Ct Kumarpal, No 3446/SE के साथ Mohan Co-Operative Industrial Area पहुंचे तो Servant Verification करते हुए Company No. B-2/3 पहुंचे तो पता उपरोक्त पर एक आदमी Guard मिला जिसने अपना नाम व पता Ravi Kumar S/o Shiv Charan R/o B-2/3, Mohan Co-Operative Area, Badarpur, New Delhi-110044 Age 43 Yrs. Mobile No 7217778199 बतलाया। जिसने पूछताछ पर बतलाया कि वह पता उपरोक्त पर लगभग पिछले 5 साल से नौकरी करता है। जिसने Servant Verification के बारे में पूछताछ करने पर बतलाया कि उसने Verification से सम्बन्धित Document Company के मालिक Alok Prakash Shrivastav S/o K. P. Shrivastav R/O H.No. Flat No.502, Captown Supertack, Sector-74, Noida,



UP Age 57 Yrs, Mobile No 8377039502 को दे रखी है। जिन्होंने अब तक Servant Verification नहीं करायी है। जो दिल्ली में Servant की Verification के बारे में समाचार पत्र व टेलीविजन व Beat Staff समय-2 पर बतलाता रहता है। फिर भी Company के मालिक Alok Prakash Shrivastav S/o K. P. Shrivastav पता उपरोक्त ने अपने Servant Verification उपरोक्त Ravi Kumar S/o Shiv Charan पता उपरोक्त की Servant Verification नहीं कराकर Notification No 1620/ACP/Badarpur Dated 08/11/25 की अवेहलना करके अपराध U/S-223 (a) BNS का किया है। लिहाजा एक लेख तैयार करके Ct Kumarpal, No 3446/SE के द्वारा मुकदमा दर्ज करवाने हेतु थाना भिजवाया जा रहा है। मुकदमा दर्ज करके मुकदमा संख्या से अवगत कराया जावे। ...”

[Emphasis Supplied]

16. The aforesaid leaves no doubt that even on 13.11.2025, when the Police inspected the premises, the guard had, *admittedly*, been working there for the last approximately *five years*. Not only that, this Court also finds that even in the chargesheet filed before the concerned Magistrate and the Status Report filed before this Court, the whole case of the prosecution is based on the said Order dated 08.11.2025 as it is the sole basis of the alleged offence under *Section 223(a)* of the BNS. There is nothing else anywhere.

17. In such a scenario, an alleged omission on the part of petitioner, if any, when the inspection was conducted at the premises on 13.11.2025 cannot be constituted an act of disobedience of the Order dated 08.11.2025 issued by the ACP. Thus, the whole essence of the present FIR is based on something which cannot withstand trial.

18. The present proceedings are also not falling in any of the categories delineated by the Hon'ble Supreme Court in ***State of Haryana (supra)***.



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19. *Ergo*, in the considered opinion of this Court, since no offence under *Section 223(a)* of the BNS is made out, the present FIR No.585/2025 dated 13.11.2025 registered at P.S. Badarpur, New Delhi, along with all proceedings emanating therefrom, is quashed.

20. As such, the present petition along with the pending application is allowed and disposed of.

SAURABH BANERJEE, J.

AUGUST 31, 2026/bh/GA