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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010398792026

+ **CRL.M.C. 6282/2026, CRL.M.A. 26177/2026 & CRL.M.A. 26176/2026**

NISHA VERMA & ORS.

.....Petitioners

Through: Appearance not given.

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Mukesh Kumar APP for the
State.
SI Sharda.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **24.08.2026**

CRL.M.A. 26178/2026 (delay)

1. For the reasons stated in the application, the application is allowed and the delay of 45 days in re-filling the petition stands condoned.
2. Application stands disposed of.

CRL.M.C. 6282/2026, CRL.M.A. 26177/2026 & CRL.M.A. 26176/2026

1. The present petition has been filed for the following reliefs:

“(i) Quash/set aside the impugned order dated 12.02.2026 passed by Ld. Special Judge (NDPS)-01, South West District, Dwarka Courts, New Delhi in Criminal Revision No. 546/2025 'Nisha Verma Vs. The State (NCT of Delhi) & Another' and also the impugned order dated 06.06.2025 passed by Ld. Judicial Magistrate, First Class, Dwarka Court, New Delhi in a complaint case No.23 14/2026 titled as “Panshul Verma Versus Nisha Verma & Ors.”.



(ii) Pass such other or further orders as this Hon'ble Court may deem fit and proper."

2. Learned counsel appearing for the petitioner submits that the Court has failed to appreciate various contradictions in the evidence of witnesses produced by the complainant. According to him, there is a repetition of the same allegations, and if they are considered in the right perspective, they would indicate that no offence is made out.

3. The Court has considered the submissions made by learned counsel appearing for the petitioner and finds that there are orders passed by the Magistrate summoning the petitioner and the order passed by the Revisional Court whereby the revision has been dismissed.

4. It is thus seen that there are two adjudications on the submissions made by the petitioner. Even otherwise, the case of the respondent was that her mother, petitioner no. 1, was married to Ashok Diwakar Kumar (second husband). Petitioner Nos. 3 and 4 are maternal parents.

5. It was thus alleged in the complaint that at the instance of the second husband of her mother, he along with other petitioners were torturing and subjecting him to various kinds of harassment. The Magistrate, in terms of para. 10 of its order has rendered the following findings:

"The main allegations that can be culled out from the complaint, the deposition of the witnesses and the arguments of Ld. Counsel for the complainant are that complainant Panshul Verma was subjected to mental harassment, physical torture and agony by all accused persons as he was threatened, repeatedly beaten and forced to do household chores by accused No. 1 and her parents i.e. accused No. 3 and 4. It is also submitted that complainant was subjected to physical danger by accused No. 1 who had even placed a hot pan on his left arm and mental agony as accused No. 1 and 2 used to consume alcohol and perform vulgar acts in front of the complainant due to which complainant even left the custody of accused No. 1. From the testimony of CW-2, it is evident that complainant (though aged 11 years), narrated the torture meted out to him in detail



highlighting that he had even witnessed his mother that is accused No. 1 getting married to accused No. 2 at Flat No. 315, Bharat Apartment, Sector 16, Dwarka and accused No. 2 used to abuse him and beat him with sticks. Accused No. 1 made him perform all household chores and both of them i.e. accused No. 1 and 2 performed vulgar acts in front of him. Accused persons also took him to Goa where they tortured him by performing vulgar acts in his presence. In order to prove their factum of stay, complainant also examined CW-4 and CW-3 to prove the documents supporting their stay in Goa. As such, testimony of CW-2 is sufficient at this stage to prima facie attract offence u/s 323 and 342 IPC and 75 Juvenile Justice Act against the accused persons.”

6. The aforesaid findings would *prima facie* satisfy the requirement of the application of mind at the stage of issuance of summons.

7. The Court at the stage of issuance of summons is not expected to conduct a mini-trial. Even otherwise, the submissions made by the petitioner have been adequately considered by the Revisional Court and in terms of paras. 9 to 11, the following findings have been rendered:

“9. The submission of the revisionist that the minor child was tutored to file the complaint, is something to be decided after the trial is concluded. This aspect cannot be gone into at the stage of summoning. The order of the Ld. Trial Court is detailed and well reasoned. In fact the Ld. Trial Court has considered the facts of the case in detail and also the law and then passed the impugned Order. The Ld. Trial Court has mentioned in the impugned Order that 'As such, testimony of CW-2 is sufficient at this stage to prima facie attract offence u/s 323 and 342 IPC and 75 Juvenile Justice Act against the accused persons'. The Ld. Trial Court has also applied its mind to the offences which are not made out.

10. In the present case, the complainant has led evidence which is the statement of CW-2, to establish the allegations made.

11. This Court finds no infirmity in the impugned Order dt. 06.06.2025. The present revision petition is dismissed and therefore, disposed of accordingly. Trial Court Record be sent back along with the copy of this Order”

8. In view of these findings, at this stage, the Court is not inclined to accept the prayer made by the petitioner to discharge the petitioner or to set aside the order of issuance of summons.



9. Reference can be made to the decision of the Supreme Court in **Sonu Gupta v. Deepak Gupta and Ors.**¹ wherein it was held that at the stage of cognizance and summoning, the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The relevant para is as under-

8. Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.

9. It is also well settled that cognizance is taken of the offence and not the offender. Hence at the stage of framing of charge an individual accused may seek discharge if he or she can show that the materials are absolutely insufficient for framing of the charge against that particular accused. But such exercise is required only at a later stage, as indicated above and not at the stage of taking cognizance and summoning the accused on the basis of prima facie case. Even at the stage of framing of charge, the sufficiency of materials for the purpose of conviction is not the requirement and a prayer for discharge can be allowed only if the court finds that the materials are wholly insufficient for the purpose of trial. It is also a settled proposition of law that even when there are materials raising strong suspicion against an accused, the court will be justified in rejecting a prayer for discharge and in granting an opportunity to the prosecution to bring on record the entire evidence in accordance with law so that case of both the sides may be considered appropriately on conclusion of trial

10. Further, in the matter of **State of Gujarat v. Afroz Mohammed**

¹ (2015) 3 SCC 424



Hasanfatta,² the Court reiterated that it is not required to record detailed reasons or evaluate the truthfulness of allegations as if it is conducting a full trial. Application of mind is shown if the material on record prima facie discloses the commission of an offense.

22. *In summoning the accused, **it is not necessary for the Magistrate to examine the merits and demerits of the case and whether the materials collected is adequate for supporting the conviction. The court is not required to evaluate the evidence and its merits.*** The standard to be adopted for summoning the accused under Section 204 CrPC is not the same at the time of framing the charge. For issuance of summons under Section 204 CrPC, the expression used is "there is sufficient ground for proceeding..."; whereas for framing the charges, the expression used in Sections 240 and 246 IPC is "there is ground for presuming that the accused has committed an offence...". ***At the stage of taking cognizance of the offence based upon a police report and for issuance of summons under Section 204 CrPC, detailed enquiry regarding the merits and demerits of the case is not required. The fact that after investigation of the case, the police has filed charge-sheet along with the materials thereon may be considered as sufficient ground for proceeding for issuance of summons under Section 204 CrPC.***

23. Insofar as taking cognizance based on the police report is concerned, the Magistrate has the advantage of the charge-sheet, statement of witnesses and other evidence collected by the police during the investigation. Investigating officer/SHO collects the necessary evidence during the investigation conducted in compliance with the provisions of the Criminal Procedure Code and in accordance with the rules of investigation. Evidence and materials so collected are sifted at the level of the investigating officer and thereafter, charge-sheet was filed. In appropriate cases, opinion of the Public Prosecutor is also obtained before filing the charge-sheet. The court thus has the advantage of the police report along with the materials placed before it by the police. Under Section 190(1)(b) CrPC, where the Magistrate has taken cognizance of an offence upon a police report and the Magistrate is satisfied that there is sufficient ground for proceeding, the Magistrate directs issuance of process. ***In case of taking cognizance of an offence based upon the police report, the Magistrate is not required to record reasons for issuing the process.*** In cases instituted on a police report, the Magistrate is only required to pass an order issuing summons to the accused. Such an order of issuing summons to the accused is based upon subject to satisfaction of the Magistrate considering the police report and other documents and satisfying himself that there is sufficient ground for

² (2019) 20 SCC 539



proceeding against the accused. In a case based upon the police report, at the stage of issuing the summons to the accused, the Magistrate is not required to record any reason. In case, if the charge-sheet is barred by law or where there is lack of jurisdiction or when the charge-sheet is rejected or not taken on file, then the Magistrate is required to record his reasons for rejection of the charge-sheet and for not taking it on file

11. Accordingly, having regard to the limited scope of interference at the stage of issuance of summons, and keeping in view that the allegations and material on record disclose a *prima facie* case warranting the continuation of proceedings, this Court finds no ground to interfere with the orders passed by the learned Magistrate and the learned Revisional Court. The petitioner shall, therefore, be at liberty to raise all permissible contentions before the learned Trial Court at the appropriate stage.

12. The present petition, along with the pending applications, stands disposed of in the aforesaid terms.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 24, 2026/P/as