



\$~68 & 69

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

CNR No. DLHC010411052026

+ **CRL.M.C. 6464/2026 & CRL.M.A. 27002/2026**

SUNIL KUMAR

.....Petitioner

Through: Mr. Raghav Chawla, Adv.
versus

STATE GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Ajay Vikram Singh, APP
(through VC)
SI Kuldeep Yadav, PS Raj Park

~69

CNR No. DLHC010411152026

+ **CRL.M.C. 6466/2026 & CRL.M.A. 27014/2026**

RAJBAL SINGH

.....Petitioner

Through: Mr. Raghav Chawla, Adv.
versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP
(through VC)
SI Kuldeep Yadav, PS Raj Park

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER
02.09.2026

%

1. This hearing has been done through hybrid mode.
2. The present petitions under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seek quashing of FIR No. 449/2017, registered at Police Station Mangolpuri, Delhi for offences punishable under Sections 186/189/353/506/34 of the Indian Penal Code, 1860, and the proceedings



emanating therefrom. Since both the petitions arise out of the same FIR and involve common questions of fact and law, they are being considered together.

3. The facts, in brief, are that on 22.03.2017, an action was undertaken by a Special Task Force in respect of an alleged encroachment on the footpath adjoining MCD Park near House Nos. 146–147, B-Block, Mangolpuri, Delhi. The team comprised officials from the Revenue Department, Police, MCD and Civil Defence. During the said action, two shops were found operating at the spot, one of which was stated to belong to petitioner Rajbal Singh, who was carrying on the business of repair of gas stoves, while the other was a closed pan and kirana shop belonging to one Shrikant Shukla.

4. According to the prosecution case, when the encroachment was sought to be removed, the person operating the gas-stove shop resisted the action and stated that the shop was functioning pursuant to the orders of the ACP, though no written document in support thereof was produced. It is further alleged that when the MCD and Civil Defence personnel commenced removal of the encroachment, petitioner Sunil Kumar, son of Rajbal Singh, started misbehaving with the officials and forcibly interfering with the discharge of their duties. Despite the arrival of the SHO, P.S. Mangolpuri and other police officials, Sunil Kumar allegedly continued to obstruct the officials and thereafter threatened and assaulted members of the team, whereupon he was detained and taken to the police station.

5. Pursuant thereto, directions were issued that the alleged encroachers remove their shops within two days. The SHO, P.S. Mangolpuri was also directed to register an FIR. Consequently, FIR No. 449/2017 came to be registered on 22.03.2017 under Sections 186/189/353/506/34 IPC. Both Sunil



Kumar and Rajbal Singh were arrested on the same day and were produced before the learned Magistrate on 23.03.2017, when they were admitted to bail.

6. During the course of investigation, statements of witnesses under Section 161 CrPC were recorded and the investigating agency proceeded with the investigation. Thereafter, a request dated 01.06.2021 was made for obtaining the requisite complaint under Section 195 CrPC. The Office of the District Magistrate, North-West District forwarded the relevant complaint in June 2021. Subsequently, Ms. Meena Tyagi, SDM/Rohini, submitted a complaint under Section 195 CrPC seeking cognizance against both Rajbal Singh and Sunil Kumar on the basis of the facts stated by the then SDM/Rohini.

7. The investigation ultimately culminated in the filing of a charge-sheet/final report under Section 173 CrPC on 29.07.2021 against both the petitioners for offences punishable under Sections 186/189/353/506/34 IPC. The present petitions have thereafter been filed seeking quashing of the FIR and the proceedings arising therefrom.

8. It may also be noted that during the course of trial, the prosecution witness, Satyaprakash, who was examined on 20.11.2025, stated that he had accompanied the team to the spot and had witnessed a person arguing with the officials in a loud voice.

SUBMISSIONS ON THE BEHALF OF THE PETITIONERS:

9. Learned counsel appearing on behalf of the petitioners submits that the allegations forming the basis of the present FIR are vague and omnibus and do not disclose the commission of the alleged offences. It is submitted that a plain reading of the FIR, the Action Report and the complaint under Section 195 CrPC would show that the allegations of misbehaviour, obstruction,



interference with official duties, threatening and assault are primarily directed against petitioner Sunil Kumar. Qua petitioner Rajbal Singh, it is contended that no specific overt act has been attributed to him and his alleged connection with the incident is primarily on account of the shop in question being stated to belong to him.

10. Learned counsel submits that no specific act of assault or use of criminal force by Rajbal Singh against any public servant has been alleged. Neither has any particular public servant been identified as having been assaulted by him, nor has any act of physical force, intimidation or threat been specifically attributed to him. It is, therefore, contended that the essential ingredients of the offences punishable under Sections 353, 189 and 506 IPC are not made out qua Rajbal Singh.

11. It is further submitted that the contemporaneous Action Report specifically records the alleged acts of misbehaviour and interference with the official action against Sunil Kumar. Attention is also drawn to the directions contained therein, whereby the SHO, P.S. Mangolpuri was directed to register an FIR against Sunil Kumar. Learned counsel submits that, despite the absence of any corresponding specific allegation against Rajbal Singh, he was also subsequently arrayed as an accused.

12. Qua petitioner Sunil Kumar, learned counsel submits that the allegations are also general in nature and do not specify the precise physical act allegedly committed by him, the particular public servant against whom criminal force was used, or the words constituting the alleged threats. It is submitted that no MLC or other material indicating any injury allegedly suffered during the incident has been placed on record.

13. Learned counsel further submits that the alleged incident took place at



an open public location during an anti-encroachment operation involving officials of several departments. Despite the same, no independent or neutral public witness has been cited by the prosecution. It is further submitted that no CCTV footage, videography, photographs or other contemporaneous electronic evidence of the alleged incident has been collected or placed on record. According to learned counsel, the investigating agency has also failed to demonstrate any meaningful effort to procure such material from the surrounding area.

14. It is further submitted that the alleged incident occurred on 22.03.2017, whereas the charge-sheet was filed only on 29.07.2021. The requisite complaint under Section 195 CrPC was also obtained only in the year 2021. Learned counsel submits that the delay of more than four years in completion of the investigation and filing of the charge-sheet remains unexplained and casts doubt upon the manner in which the prosecution has proceeded.

15. Learned counsel also relies upon the testimony of prosecution witness Satyaprakash recorded on 20.11.2025, to contend that the witness stated that he was standing at some distance from the place of occurrence and was unable to hear the entire conversation. It is submitted that the said testimony does not support the prosecution case in the manner alleged and raises serious doubts regarding the prosecution version.

16. It is further contended that there is no material to establish a pre-arranged plan or meeting of minds between the petitioners so as to attract Section 34 IPC. Rajbal Singh, according to learned counsel, cannot be made vicariously liable merely because Sunil Kumar is his son or because the shop at the site was allegedly associated with him.

17. Reliance is placed upon the decision of the Supreme Court in



Umashankar Yadav & Anr. v. State of U.P. & Anr., 2025 INSC 653, to contend that assault or use of criminal force against a public servant is an essential ingredient for the offence punishable under Section 353 IPC. Learned counsel submits that the necessary foundational facts to establish the said offence are absent in the present case, particularly qua Rajbal Singh.

SUBMISSIONS ON THE BEHALF OF THE RESPONDENTS:

18. Per contra, learned APP for the State opposes the present petitions and submits that the same are devoid of merit. It is submitted that on 22.03.2017, a Special Task Force comprising officials of the Revenue Department, Police, MCD and Civil Defence had undertaken an anti-encroachment action at the footpath adjoining MCD Park near House Nos. 146–147, B-Block, Mangolpuri, Delhi. Two shops were found operating at the spot, one of which was associated with petitioner Rajbal Singh.

19. Learned APP submits that when the concerned persons were directed to remove the encroachment, resistance was offered to the official action. It is the case of the prosecution that petitioner Sunil Kumar thereafter misbehaved with the government officials and forcibly interfered with the discharge of their official duties. Despite the presence of police officials and the SHO, P.S. Mangolpuri, the obstruction allegedly continued, following which the present FIR came to be registered.

20. It is submitted that the contentions raised by the petitioners regarding the absence of independent witnesses, CCTV footage, videography, or specific particulars of the alleged acts are matters relating to appreciation of evidence and cannot be conclusively adjudicated in proceedings under Section 528 of the BNSS. Learned APP submits that the prosecution case cannot be discarded at this stage merely because the petitioners seek to



highlight alleged deficiencies in the investigation.

21. Learned APP further submits that the question as to whether the allegations against each of the petitioners are sufficiently established by the evidence on record is a matter to be considered by the learned Trial Court upon appreciation of the material produced by the prosecution. Similarly, the effect of the delay in filing of the charge-sheet and the evidentiary value of the testimony of the witnesses are matters which are required to be examined during the course of trial.

22. Learned APP submits that the mere fact that the contemporaneous directions specifically referred to registration of an FIR against Sunil Kumar does not, by itself, render the subsequent investigation against Rajbal Singh illegal, particularly when the investigating agency has filed the charge-sheet against both petitioners after completion of investigation and after obtaining the requisite complaint under Section 195 CrPC.

23. It is thus submitted that the FIR and the material collected during investigation disclose allegations requiring examination in accordance with law and that this Court, in exercise of its inherent jurisdiction, ought not to undertake a detailed appreciation or evaluation of the prosecution evidence. It is, therefore, prayed that the present petitions be dismissed.

ANALYSIS AND FINDINGS:

24. This Court has considered the submissions advanced on behalf of the parties and perused the material placed on record.

25. The scope of jurisdiction under Section 528 of the BNSS is well settled. In *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra & Ors.*, (2021) 19 SCC 401, the Supreme Court reiterated that the High Court, while considering a petition for quashing, is not required to undertake a detailed



appreciation of evidence or conduct a mini-trial. The allegations and the material on record are to be examined only to ascertain whether a prima facie case is disclosed.

26. In the present case, the FIR arises out of an anti-encroachment action undertaken on 22.03.2017. The petitioners have essentially sought quashing by contending that the allegations are vague, no specific overt act is attributable to Rajbal Singh, and that there is no independent witness, CCTV footage, videography or MLC supporting the prosecution case. Reliance has also been placed upon the testimony of one of the prosecution witnesses and the delay in filing of the charge-sheet.

27. In the opinion of this Court, the aforesaid submissions would require an assessment of the evidence and the material collected during investigation. The absence or otherwise of CCTV footage, videography, an independent witness or medical evidence, as also the evidentiary value of the testimony of the witnesses, are matters to be considered by the learned Trial Court upon appreciation of the evidence. This Court cannot, in proceedings under Section 528 of the BNSS, undertake such an exercise or record findings regarding the credibility and sufficiency of the prosecution evidence.

28. Similarly, the contention that no specific overt act is attributable to Rajbal Singh and that the contemporaneous Action Report primarily attributes the alleged acts to Sunil Kumar would require an examination of the material collected during investigation and the evidence adduced during trial. The individual role and criminal liability, if any, of each petitioner are matters which are required to be determined on the basis of the evidence in accordance with law.

29. The reliance placed by the petitioners on ***Umashankar Yadav & Anr.***



v. State of U.P. & Anr., 2025 INSC 653, and State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335, is of no assistance at this stage. There can be no dispute with the principles laid down therein. However, the present case cannot be said to be one where, accepting the allegations and the material at face value, no offence whatsoever is disclosed. The contentions raised by the petitioners, in substance, relate to the sufficiency and reliability of the prosecution evidence, which cannot be adjudicated in the present proceedings.

30. In view of the above, this Court finds no ground to exercise its inherent jurisdiction under Section 528 of the BNSS. The questions raised by the petitioners are left open to be urged before the learned Trial Court at the appropriate stage and shall be considered in accordance with law.

31. Accordingly, the present petitions are dismissed. Pending applications, if any, are also disposed of.

32. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

SEPTEMBER 2, 2026/P