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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010428772026
+ **CRL.M.C. 6719/2026, CRL.M.A. 28099/2026 & CRL.M.A. 28100/2026**

MOHD MUSTKIM MANSOORI & ANR. Petitioners
Through: Mr. Rajeev Chhetri, Mr. Rajesh Chhetri, Mr. Sandip Munian and Ms. Sveta Khulbe, Advs.
versus

THE STATE (NCT OF DELHI) & ORS. Respondents
Through: Mr. Ajay Vikram Singh, APP.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **10.09.2026**

1. This hearing has been conducted through hybrid mode.
2. The present petition under Section 482 of the Code of Criminal Procedure, 1973 [hereinafter, referred to as 'Cr.P.C.'] read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [hereinafter, referred to as 'BNSS'] seeks setting aside of the impugned judgment dated 17.03.2026 passed by the learned Additional Sessions Judge-02, South District, Saket Courts, in **Criminal Revision Petition No. 62/2026**. Vide the said judgment, the revision preferred against the order dated 03.11.2025, dismissing **Complaint Case No. 3113/2018** for non-appearance and non-prosecution, was dismissed. The petitioners seek setting aside of the impugned judgment and as well as the restoration of the complaint dismissed.

FACTS

3. The present petition arises from incidents stated to have occurred in



August and September 2015. According to the petitioners, following their intervention in an altercation at a tea shop in Sangam Vihar, they were taken to Police Station Sangam Vihar on 09.09.2015, made to sign blank papers and assaulted by certain police officials. They further allege that **FIR No. 574/2015** was thereafter falsely registered against them. Upon being produced before the learned Magistrate on 10.09.2015, they complained of injuries and sought medical examination. Petitioner No. 1 is stated to have subsequently undergone neurosurgical treatment at Safdarjung Hospital.

4. On 15.03.2018, the petitioners, along with Vinod Kumar, instituted a complaint under Section 200 of Cr.P.C. and filed an application under Section 156[3] of Cr.P.C. *Vide* order dated 07.02.2020, the said application was dismissed. The matter was thereafter directed to proceed as a complaint case and an opportunity was granted to lead pre-summoning evidence.

5. The pre-summoning evidence remained incomplete. On 28.11.2024, the complainant appeared, but no witness was present, and the matter was adjourned. On 03.11.2025, none appeared on behalf of the complainant despite repeated calls. **Complaint Case No. 3113/2018** was accordingly dismissed for non-appearance and non-prosecution.

6. The petitioners challenged the said order in **Criminal Revision Petition No. 62/2026**. The revisional court, *vide* judgment dated 17.03.2026, declined to interfere, observing that repeated opportunities had been granted and that the complaint had not been diligently prosecuted. Hence, the present petition.

SUBMISSIONS ADVANCED ON BEHALF OF THE PETITIONER

7. Learned counsel for the petitioners submits that the courts below adopted an unduly technical approach in dismissing the complaint for non-prosecution. That the concerned complaint raised allegations of custodial



violence, illegal detention and abuse of official position and that such allegations, involving the petitioners' rights under Article 21 of the Constitution of India, ought to be examined on merits.

8. The learned counsel further submits that the non-appearance was not deliberate in nature. That the petitioners had relied upon their previous counsel, who allegedly failed to communicate the dates of hearing and had misplaced the original documents. He further submits that the petitioners ought not to be denied adjudication on merits for lapses attributable to their counsel. Reliance was placed in this regard on ***Collector (LA) v. Katiji, (1987) 2 SCC 107***.

9. Learned counsel further submits that the pre-summoning evidence had commenced, CW-1 had been partly examined and the medical documents and contemporaneous complaints were also on record. He contends that grant of one further opportunity would not have caused any prejudice to the respondents.

10. Lastly, the learned counsel submits that the revisional court failed to exercise its jurisdiction to prevent miscarriage of justice. Relying upon ***Associated Cement Co. Ltd. v. Keshvanand, (1998) 1 SCC 687***, and ***Mohd. Azeem v. A. Venkatesh, (2002) 7 SCC 726***, he contends that dismissal of a criminal complaint for default should be resorted to sparingly and that the matter deserved restoration for consideration on merits.

ANALYSIS AND FINDINGS

11. This court has heard the learned counsel for the petitioners and also perused the material placed on record.

12. The principal issue which arises for consideration of this court is whether the dismissal of the complaint for non-appearance and non-



prosecution at the stage of pre-summoning evidence, and the subsequent refusal of the learned Revisional Court to restore the same, warrant interference by this Court in exercise of its inherent jurisdiction, particularly having regard to the allegations of custodial violence raised by the petitioners.

13. The power of the High Court under its inherent jurisdiction is of wide amplitude in order to secure ends of justice, but at the same time, it is to be exercised sparingly, carefully and with caution, so as to prevent the abuse of the process of the Court. In ***State of Karnataka v. M. Devendrappa, (2002) 3 SCC 89***, the Hon'ble Supreme Court observed that the Court, while exercising this power, does not act as a court of appeal or revision and must remain guided by the tests contained in the provision itself.

14. There can be no doubt that custodial violence is wholly impermissible. It strikes at the very root of the rule of law and of the constitutional values which protect the life, liberty and dignity of every individual, and also, it violates the fundamental rights guaranteed under Article 21 of the Constitution of India. In ***D.K. Basu v. State of W.B., (1997) 1 SCC 416***, the Hon'ble Supreme Court held that custodial torture is a naked violation of human dignity and that protection against such abuse is a matter of deep concern in a free society.

15. However, at this stage, this Court is not called upon to determine the truth of the allegations made in the complaint. The inquiry is confined to the legality and propriety of the order dismissing the complaint and the subsequent judgment declining interference. The Court must examine whether the default was isolated and bona fide, whether sufficient cause has been shown, whether adequate opportunities had been granted, the stage of the proceedings and whether refusal to restore the complaint would result in



manifest injustice. Interference would be warranted where the discretion has been exercised mechanically or material circumstances have been ignored.

16. Tested on the above parameters, the complaint remained at the stage of pre-summoning evidence for several years. It was directed to proceed for the same on 07.02.2020 and remained at that very stage until 03.11.2025, the date on which it was dismissed. The evidence was also not completed despite repeated opportunities being granted. The order dated 03.11.2025 records that none appeared for the complainants despite repeated calls and despite a last and final opportunity having been granted. The explanation that the previous counsel failed to communicate the dates and had misplaced the documents is not supported by any material that would show the steps taken by the petitioners to pursue the complaint expeditiously thereafter. The default was, therefore, neither isolated nor satisfactorily explained.

17. The learned Revisional Court, in its impugned judgment, likewise noted that despite ample opportunities granted over an extended period, the pre-summoning evidence remained incomplete. It found the explanation regarding the conduct of the previous counsel insufficient and concluded that the dismissal of the complaint resulted from continued non-prosecution rather than any hasty or arbitrary exercise of discretion.

18. The right of a complainant to seek redress must be protected, but at the same time, public officials cannot be kept indefinitely under the shadow of untested allegations when the complainant fails to lead evidence despite adequate and repeated opportunities being granted. The balance lies in ensuring a fair opportunity, but not an endless one and as has been stated above, in the present case, sufficient opportunity had already been afforded to the complainants.



19. In view of the above, no patent illegality, perversity or failure of justice is found in the judgment dated 17.03.2026 or the order dated 03.11.2025 that would call for interference of this court in exercise of its inherent jurisdiction.
20. The present petition is accordingly, dismissed.
21. Pending applications also stand disposed of.
22. Needless to state, nothing hereinabove shall be construed as an expression on the merits of the case.
23. A copy of this order be sent to the concerned learned Trial Court for necessary information and compliance.
24. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

SEPTEMBER 10, 2026/JYH/PG