

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on:25.11.2019

+ **W.P.(CRL) 3422/2018 &CRL.M.A. 35858/2018**

ANURAG SANGHI

.....Petitioner

versus

STATE & ORS

..... Respondents

Advocates who appeared in this case:

For the petitioner : Mr Siddharth Aggarwal, Mr Rajan Bajaj, Ms Sowjhanya, Mr Vishwajeet and Mr Lau Dhawan, Advocates.

For the Respondents: Ms Nandita Rao, ASC (Crl) for State with SI Shashi Dixit, PS Bawana.
Mr R.K. Tarun and Mr Sumit Kumar, Advocates for R-2.

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HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, praying for quashing of FIR No. 431/2018, under Sections 63 and 65 of the Copyright Act, 1957 (hereafter 'the Copyright Act'), registered with P.S Bawana, and all proceedings emanating therefrom.

2. The facts that have given rise to the present controversy are briefly stated below:

2.1. Respondent no. 2 (hereafter 'Knit Pro') is a company engaged in manufacturing of knitting needles, and one of its products includes 'Lykke Knitting Needles'. It is stated that there were disputes between the petitioner and Knit Pro, which were resolved in terms of an agreement, whereby the petitioner had agreed to not manufacture certain knitting needles.

2.2. Knit Pro alleges that notwithstanding the agreement entered into by the parties, the petitioner continued to deal in infringing products, namely 'Lykke Knitting Needles'. This led Knit Pro to institute three civil suits against the petitioner for the infringement of its copyright. It is stated that an *ex-parte* injunction was granted against the petitioner and a Local Commissioner was appointed to search and seize the goods that were infringing Knit Pro's copyright.

2.3. The orders directing search and seizure by the Local Commissioner were challenged before various Courts. On 05.06.2018, the Local Commissioner visited the premises of the petitioner and seized the allegedly infringing goods. The petitioner states that he had duly complied with the injunction and had refrained from selling and manufacturing the alleged infringing goods.

2.4. On 20.06.2018, Knit Pro filed a complaint with the Economic Offences Wing (EOW), *inter alia*, alleging that the petitioner had violated the *ex parte* injunction granted by the court in its favour, by manufacturing the goods that infringed its copyright.

2.5. On 10.08.2018, Knit Pro filed an application under Section 156(3) of the Cr.P.C. and sought directions from the Learned Chief Metropolitan Magistrate (CMM) for the registration of a FIR against the petitioner under Sections 51, 63 and 64 of the Indian Copyright Act read with Section 420 of the IPC.

2.6. On 23.10.2018, the Learned CMM allowed the application under Section 156(3) of the Cr.P.C. and directed the concerned SHO to register the FIR under the appropriate provision of law, within one day of the receipt of the order. The petitioner filed a revision petition before the court of the Learned Additional Sessions Judge (ASJ) and also sought an interim stay of the order dated 23.10.2018.

2.7. On 26.10.2018, the learned ASJ (ASJ-02, North, Rohini Courts, New Delhi) declined to accede to the petitioner's prayer for stay the impugned order dated 23.10.2018.

2.8. Pursuant to the order dated 23.10.2018 passed by the Learned CMM, a FIR bearing no. 0431/2018 was registered with PS Bawana.

2.9. Thereafter, the petitioner has filed the present petition impugning the orders dated 23.10.2018 and 26.10.2018.

3. The petitioner has challenged the impugned orders on various grounds. However, Mr Aggarwal, the learned counsel appearing for the petitioner, while reserving the petitioner's right to canvas its other contentions before appropriate courts, restricted the present petition to challenge the impugned orders on the sole ground that the offence

under Section 63 of the Copyright Act is not a cognizable and a non bailable offence.

Reasons and Conclusion

4. At the outset, it is relevant to note that the opening sentence of the application filed by Knit Pro under Section 156(3) of the Cr.P.C. indicates that the complaint is, essentially, under Sections 51, 63 and 64 of the Indian Copyright Act, 1957 (hereafter the 'Copyright Act'). Section 51 of the Copyright Act sets out the circumstances in which a copyright is deemed to be infringed. Section 64 of the Copyright Act empowers any police officer to seize, without warrant, all copies of the works and all plates used for the purpose of making infringing copies of the works, if he is satisfied that an offence under Section 63 of the Copyright Act in respect of infringement of copyright in any work has been, is being, or is likely, to be committed.

5. Section 63 of the Copyright Act contains provisions regarding the offence of infringement of copyright and other rights conferred under the Copyright Act and prescribes the punishment liable to be imposed for such offence. Section 63 of the Act is set out below:-

“63. Offence of infringement of copyright or other rights conferred by this Act.—Any person who knowingly infringes or abets the infringement of—

(a) the copyright in a work, or

(b) any other right conferred by this Act, except the right conferred by section 53A except the right conferred by section 53A

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees: Provided that where the infringement has not been made for gain in the course of trade or business the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.

Explanation.—Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section.”

6. The principal controversy involved in this petition is whether the said offence is cognizable. The petitioner claims that the said offence is a non-cognizable offence, as there is no specific provision in the Copyright Act that stipulates so and the punishment stipulated does not fall within the scope of cognizable offences as set out in Part II of the First Schedule of the Cr.P.C.

7. The respondents contend to the contrary. According to the respondents, the offence under Section 63 of the Copyright Act falls squarely within Part II of the First Schedule to the Cr.P.C., which indicates that offences punishable with imprisonment for three years and upwards but not more than seven years, are cognizable and non-bailable.

8. Mr Aggarwal referred to the decision of a Coordinate Bench of this Court in ***State of NCT of Delhi v. Naresh Kumar Garg: 2013 SCC OnLine Del 1142*** and contended that the aforesaid issue is covered in favour of the petitioner and, therefore, the learned CMM had erred in passing the impugned order directing registration of a FIR pursuant to the complaint filed by the Knit Pro. He also referred to the decision of the Supreme Court in ***Avinash Bhosale v. Union of India and Anr.: (2007) 14 SCC 325*** in support of his contention.

9. Ms Nandita Rao, learned APP and Mr R.K. Tarun, learned counsel appearing for Knit Pro countered the aforesaid submissions.

10. Ms Rao had relied upon the decision of the Kerala High Court in ***Abdul Sathar v. Nodal Officer, Anti-Piracy Cell, Kerala Crime Branch Office and Anr.: AIR 2007 Ker 212*** in support of her contention that on a plain reading of Part II of the First Schedule of the Cr.P.C., the offence under Section 63 of the Copyright Act was a cognizable offence. She also submitted that in ***State of NCT of Delhi v. Naresh Kumar Garg (supra)***, this court had not considered the earlier decisions of this Court in ***Dabur India Limited v. Shree Baidyanath Ayurved Bhawan Pvt. Ltd., 193 (2012) DLT 558*** and ***The Coca Cola Company and Anr. v. K.M. Salim: (2014) 208 DLT 432***, wherein the Court had observed that the infringement of copyright constituted a cognizable offence under Sections 63 and 64 of the Copyright Act.

11. Mr R.K. Tarun, learned counsel appearing for Knit Pro referred to the decision of a Coordinate Bench of this Court in ***Santosh Kumar Mandal v. State: 2016 VIII AD (Delhi) 337*** and submitted that the Court had distinguished the earlier decision in ***Naresh Kumar Garg (supra)*** and, therefore, the same is no longer applicable.

12. Before proceeding further, it would be relevant to refer to Part II of the First Schedule of the Cr.P.C. The same is set out below:-

II – CLASSIFICATION OF OFFENCES AGAINST OTHER LAWS

Offence	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
1	2	3	4
If punishable with death, imprisonment for life, or imprisonment for more than 7 years.	Cognizable	Non-bailable	Court of Session
If punishable with imprisonment for 3 years and upwards but not more than 7 years.	Cognizable	Non-bailable	Magistrate of the first class
If punishable with imprisonment for less than 3 years or with fine only.	Non-cognizable	Bailable	Any Magistrate

13. It is apparent from the above that Part II of the First Schedule of the Cr.P.C classifies offences that are cognizable and non-cognizable on the basis of the punishment that is liable to be imposed for the said offence. The first category consists of offences which are punishable with death, imprisonment for life or imprisonment for more than seven years. It is obvious that this category seeks to encompass all offences,

which are punishable for imprisonment of more than seven years. The second category relates to offences that are punishable with imprisonment for three years or more but not more than seven years. The third category relates to offences which are punishable with imprisonment for less than three years or with a fine only.

14. It is, at once, clear that there is no hiatus between the three categories. The spectrum of punishment by imprisonment from nil to life, is divided into three categories in the descending order. Therefore, this Court is of the view that the said three categories are exhaustive. Obviously, it follows that if an offence is punishable by a term of imprisonment which is not specifically mentioned in Part II of the First Schedule of the Cr.P.C., the same would be covered within the spectrum of the three categories. This is, of course, subject to any enactment regulating the manner or place of investigating, inquiring into, trying or otherwise dealing in such offences. (See: **Section 4(2) of the Cr.P.C.**).

15. Almost all enactments stipulate a range of punishment that can be imposed in respect of any offence. Most of the enactments provide for a maximum punishment that can be imposed and some of the enactments also provide for a minimum sentence that can be awarded for an offence. It is not necessary that the range of punishment, as provided for any offence under any enactment, be in identical terms with the language of any of the categories under Part II of the First Schedule of the Cr.P.C. However, that does not mean that the punishment provided for the said offence falls outside the scope of

Part II of the First Schedule of the Cr.P.C. As stated above, the three categories of Part II of the First Schedule of the Cr.P.C. cover the entire spectrum of offences that are punishable by imprisonment – from a term of nil (only with a fine) to a term of life.

16. In ***Abdul Sathar v. Nodal Officer*** (*supra*), the Kerala High Court had observed that the language of the provisions of Section 63 of the Copyright Act and the language of categories in Part II of the First Schedule of the Cr.P.C. are clear. Since the offence under Section 63 of the Copyright Act is punishable for an imprisonment for a period of three years and with a fine, the same would fall within second category of offences which are punishable with imprisonment “*for 3 years and upwards but not more than 7 years*”.

17. The Andhra Pradesh High Court has taken a contrary view in ***Amarnath Vyas v. State of A.P.: 2007 Cri. LJ 2025***. The Court, after referring to the classification of offences under Part II of the First Schedule of the Cr.P.C. had noticed that the expression “*punishment for a term which may extend to three years*” as stipulated in Section 63 of the Copyright Act is not similar to the expression “*punishment for 3 years and upwards*”. The Court further held that there may be other classes of offences which fall in between the second category (referred to classification II) and the third category (referred to as classification III) of Part II of the First Schedule of the Cr.P.C. The Court observed that “*Merely because that they are not coming squarely come within the domain of classification-III, they, cannot automatically be treated*

as included in the classification-II. By default, they cannot be considered as coming within the purview of the classification-II.”

18. This Court is, respectfully, unable to concur with the aforesaid reasoning. The offences under Part II of Schedule I of the Cr.P.C are classified on the basis of the punishment imposable on such offence. It is clear from the three categories that the intent of the legislature was to set out an exhaustive range of punishments that could be imposed for offences.

19. As noticed above, most statutes provide that the specified offences be punishable by a term of imprisonment that may vary with a specified range. All statutes specify the maximum punishment that can be imposed for a specific offence. Some statutes also prescribe the minimum sentence that is required to be awarded for an offence. The said range of the term of imprisonment may not be identical to the language of any of the three categories under Part II of the First Schedule of the Cr.P.C. However, that does not necessarily exclude the said offences from Part II of the First Schedule of the Cr.P.C. If the said reasoning is carried to its logical conclusion, it would mean that no offence would fall within Part II of the First Schedule of Cr.P.C. unless the entire range of punishment prescribed for such offence squarely fall within the specified range under any of the three categories. This Court is of the view that the same would militate against the plain language of Part II of Schedule I of the Cr.P.C. As observed earlier, the entire range of offences have been classified into

three categories on the basis of punishment that may be awarded for such offences.

20. This does raise a question as to how an offence – the range of punishment for which does not squarely fall within any one category as specified in Part II of Schedule I of the Cr.P.C. – is to be classified. In this regard, the decision of the Supreme Court in ***Bhupinder Singh and Ors.v. Jarnail Singh and Anr.: AIR 2006 SC 2622*** is instructive. In that case, the Supreme Court had considered the question whether the Magistrate could authorize detention of a person accused of an offence under Section 304B of the IPC for a period of ninety days, as specified in clause (i) of Proviso (a) of Section 167(2) of the Cr.P.C. Since the maximum period for which a Magistrate could authorize detention of an accused person in terms of Section 167 of Cr.P.C. is dependent on the punishment imposable for such offence, the Supreme Court examined the interpretation of the word “punishable” as used in clauses (i) and (ii) of Section 167(2)(a) of Cr.P.C. In this context, the Court observed as under:-

“11.....In the case of Section 304-B the range varies between 7 years and imprisonment for life. What should be the adequate punishment in a given case has to be decided by the court on the basis of the facts and circumstances involved in the particular case. The stage of imposing a sentence comes only after recording the order of conviction of the accused person. The significant word in the proviso is “punishable”. The word “punishable” as used in statutes which declare that certain offences are punishable in a certain way means liable to be punished in the way designated. It is ordinarily defined

as deserving of or capable or liable to punishment, capable of being punished by law or right, may be punished or liable to be punished, and not must be punished.

12. In Bouvier's Law Dictionary meaning of the word "punishable" has been given as "liable to punishment". In Words and Phrases (Permanent Edn.) the following meaning is given:

"The word "punishable" in a statute stating that a crime is punishable by a designated penalty or term of years in the State prison limits the penalty or term of years to the amount or term of years stated in the statute."

13. Corpus Juris Secundum gives the meaning as:

"Deserving of, or liable to, punishment; capable of being punished by law or right; said of persons or offences. The meaning of the term is not "must be punished", but "may be punished", or "liable to be punished."

14. While dealing with a case relating to the Punjab Borstal Act, 1926, this Court held that a person convicted under Section 302 IPC and sentenced to life imprisonment is not entitled to the benefit of Section 5 of the said Act as the offence of murder is punishable with death. (See Sube Singh v. State of Haryana [(1989) 1 SCC 235 : 1989 SCC (Cri) 101] .)

15. Where minimum and maximum sentences are prescribed, both are imposable depending on the facts of the cases. It is for the court, after recording conviction, to impose appropriate sentence. It cannot, therefore, be accepted that only the minimum sentence is imposable and not the maximum sentence. Merely because minimum sentence is provided that does not mean that the sentence imposable is only the minimum sentence."

21. It is clear from the aforesaid explanation that the word “punishable” is used in Cr.P.C. and various enactments to mean the punishment that may be imposed for the said offence. It is not necessary that the maximum punishment as provided must be imposed. Thus, if any punishment can be imposed for an offence, it would not be inapposite to state that the said offence is punishable with that punishment. It is, at once, clear that when it comes to classification of an offence on the basis of the punishment that can be imposed, it would have to be reckoned with the maximum punishment that is stipulated for such an offence. This is so because a person committing that offences can be – though need not be – punished with the said punishment.

22. The view expressed by the Supreme Court in ***Bhupinder Singh*** (*supra*) with regard to the interpretation of Section 167(2)(a) of the Cr.P.C. is no longer good law, in view of the later decision of the Supreme Court in ***Rakesh Kumar Paul v. State of Assam: (2017) 15 SCC 67***. In that case the Supreme Court had concurred with the view expressed by it regarding interpretation of Section 167(2)(a) of the Cr.P.C., in an earlier decision in ***Rajeev Chaudhary v. State of NCT of Delhi: (2001) 5 SCC 34***. However, the Supreme Court’s interpretation of the word “punishable” as explained in ***Bhupinder Singh*** (*supra*) is instructive and there is no cavil with the said view. Thus, in cases where an offence is punishable by a term of imprisonment that may extend to a specified period, the maximum term of sentence that can be imposed must be considered for the

purposes of classification of the offences for the purposes of Part II of the First Schedule of the Cr.P.C.

23. By applying the aforesaid rationale, there can be no doubt that the offence under Section 63 of Copyright Act would be a cognizable offence since such offence is punishable with the term of imprisonment that may extend to three years and a fine. If a punishment of three years can be imposed, the same would be classified as an offence punishable with imprisonment for “3 years and upwards but not more than 7 years”

24. Mr Aggarwal also relied upon the decision of the Supreme Court in **Rajeev Chaudhary v. State (NCT) of Delhi** (*supra*) in support of his contentions. The said decision has no application to the question that arises in this case. In that case, the Supreme Court had considered the interpretation of proviso (a) to Section 167(2) of the Cr.P.C. This was in the context of Section 386 of the IPC. Proviso (a) to Section 167(2) is set out below:-

“167. Procedure when investigation cannot be completed in twenty-four hours.— (1) xxx xxx

(2) xxx xxx xxx

Provided that –

(a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused

person in custody under this paragraph for a total period exceeding,-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;”

25. Section 386 of the IPC provides that whoever commits extortion by putting any person in fear of death or grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

26. The Supreme Court had considered whether the said offence under Section 386 of the IPC would fall within clause (i) of Proviso (a) to Section 167(2) of the Cr.P.C. As is apparent from the above, clause (i) of proviso (a) to Section 167(2) limits the power of a Magistrate to authorize detention to a period of ninety days where an investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term “*not less than ten years.*” On a plain reading of clause (i), it is apparent that it is applicable only where the minimum term of sentence prescribed for an

offence is ten years. Section 386 of the IPC does not prescribe any minimum sentence; it specifies the maximum period of imprisonment that can be awarded. Therefore, clause (i) of proviso (a) to Section 167(2) of the Cr.P.C. was held to be inapplicable.

27. The decision in ***Rajeev Chaudhary v. State (NCT) of Delhi*** (*supra*) turned on the meaning of the expression “not less than” as occurring in clause (i) of proviso (a) to Section 167(2) of the Cr.P.C. The Supreme Court referred to the said Section and explained as under:-

“6. ...In this context, the expression “not less than” would mean imprisonment should be 10 years or more and would cover only those offences for which punishment could be imprisonment for a clear period of 10 years or more. Under Section 386 punishment provided is imprisonment of either description for a term which may extend to 10 years and also fine. That means, imprisonment can be for a clear period of 10 years or less. Hence, it could not be said that minimum sentence would be 10 years or more...”

28. The language of classification under Part II of the First Schedule of the Cr.P.C. is materially different. In order to be classified under Category II, it is necessary that the offence be punishable by imprisonment of *three years or upwards but not more than seven years*. The said language cannot be read as ‘*not less than three years*’.

29. Next, it was contended by Mr Aggarwal that Section 64 of the Copyright Act empowers the police to seize infringing copies and that

provision would be wholly unnecessary if otherwise the offence under Section 63 of the Copyright Act was cognizable.

30. The said contention is unpersuasive. Section 64 of the Act not only empowers the police to seize infringing material but also provides a mechanism for any person having interest in such copies to make an application to the Magistrate for restoration of such copies. The Magistrate is also empowered to pass such orders, as he considers necessary after hearing the applicant and after making such inquiries, as he considers necessary.

31. The learned counsel appearing for Knit Pro had relied on the decision of a coordinate Bench of this court in the case of **Santosh Kumar Mandal v. State** (*supra*). The said decision has no application in this case. The said decision was rendered in the context of the offences under the Protection of Children from Sexual Offences Act, 2012. The Court held that Section 19 of the said Act notes that the offences are cognizable in nature and provides for a special mechanism to deal with the crimes affecting children. In that view, the Court held that the decision of the Supreme Court in **Rajeev Chaudhary** (*supra*) and **Avinash Bhosale** (*supra*) has no application to the facts of that case.

32. This brings us to the decision of this Court in **State Government of NCT of Delhi v. Naresh Kumar Garg** (*supra*). In that case, the Court had referred to various decisions, including the decision of the Andhra Pradesh High Court in **Amarnath Vyas v. State of A.P.**

(*supra*) and the decision of the Supreme Court in **Rajeev Chaudhary v. State (NCT) of Delhi** (*supra*). However, the decision rests on the view stated by the Supreme Court in **Avinash Bhosale** (*supra*). The Court had held that the decision of the Supreme Court in **Avinash Bhosale** (*supra*) would fully apply to an offence under Section 63 of the Copyright Act as well and concluded that offence under Section 63 of the Copyright Act was non-cognizable.

33. In **Avinash Bhosale** (*supra*), the Supreme Court had referred to Section 135(1)(ii) of the Customs Act, 1962 (hereafter ‘the Customs Act’) and had observed that the same is a bailable offence. An offence under Section 135(1)(ii) of the Customs Act is punishable for a term which may extend to three years, or fine, or with both.

34. Ms Rao sought to draw a distinction between the punishment as prescribed under Section 63 of the Copyright Act and Section 135(1)(ii) of the Customs Act. It was contended that since the punishment under Section 63 of the Copyright Act also provided for a fine in addition to the punishment of imprisonment for a period that could extend to three years, the same should be considered as an offence falling within the classification of an offence punishable for a term of “three years and upwards but not more than seven years”.

35. In **State Govt. of NCT of Delhi v. Naresh Kumar Garg** (*supra*), this Court had repelled the said contention. Clearly, no distinction between the offences under Section 135(1)(ii) of the Customs Act and Section 63 of the Copyright Act can be made for the

purposes of classification under Part II of the First Schedule of the Cr.P.C. As discussed above, the criteria for placing any offence under the three categories would be the maximum sentence that can be awarded for that offence. If that principle is to be followed, then clearly both the offences – offence under Section 135(1)(ii) of the Customs Act and Section 63 of the Copyright Act – would fall within the second category of offences in Part II of Schedule I of the Cr.P.C.

36. The relevant extract of the decision in ***State Govt. of NCT of Delhi v. Naresh Kumar Garg*** (*supra*) is set out below:-

“6. In *Avinash Bhosale v. Union of India*, (2007) 14 SCC 325 the Supreme Court held that an offence punishable under Section 135(1)(ii) of the Customs Act, 1962 (Act of 1962) would be bailable. A Review Petition being R.P.(Crl) No. 130/2008 in Criminal Appeal No. 1138/2007 filed against this judgment was dismissed by the Supreme Court vide order dated 07.05.2008.

7. Admittedly, the offence under Section 135(1)(ii) of the Act of 1962 is punishable with imprisonment for a term which may extend to three years or fine or with both whereas the offence punishable under Section 63 of the Act is punishable with imprisonment which may extend to three years and with fine which may extend to Rs. 2 lacs. Thus, for an offence under Section 135 of the Act of 1962, an imprisonment for a term of three years in addition to the fine can be imposed by the Court of the Magistrate trying the offence as is the case for an offence under Section 63 of the Act. Thus, interpretation sought to be placed by the learned standing counsel that there is distinction between the two offences (one under Copyright Act and other under the Customs Act) is really missing.

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10. Thus, the interpretation (of the Supreme Court in Avinash Bhosale) of the term imprisonment which may extend to three years or with fine or with both which is for an offence under Section 135(1)(ii) of the Act of 1962 will fully apply in case under Section 63 of the Act.”

37. Although, in **Avinash Bhosale** (*supra*), the Supreme Court has not indicated any reasons for its conclusion/observation; it had granted leave and its decision is binding on this Court.

38. In view of the decision of the Supreme Court in **Avinash Bhosale** (*supra*) and the decision of this Court in **State Govt. of NCT of Delhi v. Naresh Kumar Garg** (*supra*), the present petition is liable to be allowed and the impugned order dated 23.10.2018 passed by the learned CMM under Section 156(3) of the Cr.P.C. and the order dated 26.10.2018 passed by the learned ASJ, are liable to be set aside. It is so directed.

39. Consequently, the FIR registered pursuant to the order dated 23.10.2018 is also set aside.

40. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

VIBHU BAKHRU, J

NOVEMBER 25, 2019
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