



\$~30 & 31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
(30) CRL.M.C. 4181/2022 & CRL.M.A. 17204/2022
(31)+ CRL.M.C. 4182/2022 & CRL.M.A. 17206/2022

PREETI VERMA
ESHWARA VENKATESAM

..... Petitioner
..... Petitioner

Through: Ms.Mugdha, Ms.Srishti Bajpa
and Mr.K.Khwaja, Advs.

versus

STATE OF NCT OF DELHI AND ANR.

..... Respondents

Through: Ms.Priyanka Dalal, APP with
Insp. Vikas Pannu

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
29.01.2024

%

1. These petitions have been filed seeking quashing of the FIR No. 0083/2020 registered at Police Station: Hazrat Nizamuddin, South-East District, New Delhi, under Section 188 of the Indian Penal Code, 1860 (in short, 'IPC').
2. It is the case of the prosecution that prohibitory orders issued vide Order No. 875-908/ACP/LN dated 31.03.2020 prohibiting all the public activities in contravention with orders issued pursuant to the nationwide lockdown to stop the spread of COVID-19 and certain SOPs issued by the Union Home Secretary vide D.O. Nos. 40-342020 DM-I (A) dated 24.03.2020 and 29.03.2020, and Order No. 40-3/2020-DM-(A) issued by the Government of India, Ministry of Home



Affairs dated 24.03.2020, 26.03.2020 and 29.03.2020, etc. mandating the wearing of face mask and maintaining social distancing at public place were issued.

3. On 12.04.2020, at about 1.00 PM, HC Radhey Lal along with Ct. Yogender Singh was patrolling in the Nizamuddin West area to enforce the lockdown guidelines. While patrolling, they saw the petitioners herein talking to each other without maintaining any social distancing. The petitioner in CRL.M.C. 4182/2022, that is, Eshwara Venkatesam, was not even wearing a mask on his face. As they were found disobeying the lawful orders, the present FIR under Section 188 of the IPC was registered against them and charge-sheet has also been filed.

4. The learned counsel for the petitioners submits that the petitioner in CRL MC 4181/2022, that is, Preeti Verma, was visiting the house of the petitioner, Eshwara Venkatesam, in relation to get the permission for the persons of the sanitation services to visit the colony for disposal of the garbage. It was at that time, they were apprehended by the police. She submits that the petitioners are persons with clean antecedents and have roots in the society. She submits that the pendency of the FIR and the charge-sheet against them is causing immense loss of goodwill and reputation that they possess.

5. On the other hand, the learned APP submits that as the petitioners were not following the orders issued by the public servant, offence under Section 188 of the IPC is made out and the same deserves no interference from this Court.

6. I have considered the submissions made.



7. Indeed the period of the nationwide lockdown was extraordinary in its own sense, especially during the first phase of the lockdown where some people were not appreciative of the measures that were being taken by the Government and the reasons for the same. In any case, there was no criminal intent in the same. Further prosecution of the cases like present will only result in clogging the judicial system and would not be in anyone's interest. In my opinion, the petitioners have learnt from their mistake inasmuch as the very filing of the charge-sheet against them would have caused enough deterrence to them from repeating their acts in future. I am also guided in this approach by the judgments of this court in *Shakya Sengupta v. State of NCT of Delhi Through its Standing*, CRL MC 732/2021 decided on 26.05.2023; High Court of Karnataka in *Murali v. State of Karantaka*, 2021 SCC OnLine Kar 5383; Madras High Court in *Ashik Ali v. State & Anr.*, in CRL O.P. MD No.16325 of 2021; and Punjab and Haryana High Court in *Court on its own motion v. State of Punjab & Ors.*, CWP-PIL-29-2021 (O&M).

8. In view of the above, the petition is allowed. FIR No. 0083/2020 registered at Police Station: Hazrat Nizamuddin, South-East District, New Delhi under Section 188 of the IPC and all consequential proceedings emanating therefrom *qua* the petitioners are quashed, subject to the condition that each of the petitioners deposit costs of Rs. 10,000/- with the Delhi State Legal Services Authority within a period of two weeks from today. The costs so deposited shall be utilised by the Delhi State Legal Services Authority for providing support to the Acid Attack Victims requiring such assistance.



9. The petitioners shall file, with the Registry of this Court, proof of deposit of the above costs and also supply a copy thereof to the concerned Investigating Officer (IO), within the abovesaid period.
10. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

JANUARY 29, 2024/ns/ss

Click here to check corrigendum, if any