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

+ **CRL.M.C. 7518/2024**

SUBHASH

.....Petitioner

Through: Mr. B.C. Mishra, Adv.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,  
APP for the State.

Insp. Anand Prakash, PS  
ACB, GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

**23.09.2024**

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**CRL.M.A. 28712/2024 (exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**CRL.M.C. 7518/2024**

3. The present petition is filed seeking quashing of the FIR No. 7/2024 dated 11.01.2024, registered at Police Station Anti Corruption Branch, for offences punishable under Section 7/13 of Prevention of Corruption Act, 1988 ('**PC Act**') read with Section 34 of the Indian Penal Code, 1860 ('**IPC**'), the chargesheet in the said case and all consequential proceedings arising therefrom.

4. The FIR was registered against the petitioner and three other persons. It is the case of the prosecution that a departmental enquiry was initiated against the petitioner and three other persons under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 on the allegation that the beat staff of Police

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Station Janak Puri were allegedly demanding monthly bribe of ₹3,000/- for parking of EECO van for selling woollen sweaters at BSES office. On 11.01.2014, a raid was conducted near BSES office, Janak Puri, and the co-accused persons, namely, Ishwar and Sandeep, were apprehended for accepting a bribe of ₹3,000/-.

5. During investigation, it was found that the petitioner was one of the police personnel who had been deployed in the concerned beat during the relevant period. It is alleged that when the raiding team was waiting for signal of acceptance of bribe by Constable Hemraj, the complainant informed that he was not able to get in touch with the said constable. Thereafter, the complainant allegedly contacted the petitioner. Although the petitioner initially agreed to come, however, he later told the complainant that he was sending co-accused Ishwar. The complainant told the petitioner that he did not know co-accused Ishwar and would not be able to recognise him, due to which, the petitioner told him that he was sending co-accused Sandeep.

6. It is stated that a departmental enquiry was initiated against the petitioner and the three other accused persons.

7. The Disciplinary Authority *vide* order dated 11.02.2019 had exonerated the petitioner of all the charges. The Disciplinary Authority perused the material on record and observed that the petitioner had not demanded any illegal gratification from the complainant and that PW-8 that is, Inspector Raj Kumar (the then SHO, Janak Puri) who had submitted a report dated 12.01.2014 stating that the name of the petitioner had come to notice for his indulgence in the subject offence in News and on asking from the IO of Anti-Corruption Branch had only given a hearsay report without any verification from the ACB officer.



8. It is not disputed that the order passed by the Disciplinary Authority has attained finality.

9. The learned counsel for the petitioner submits that the petitioner was exonerated in the departmental inquiry. He submits that in such circumstances, the parallel proceedings in the present FIR cannot continue as the same would amount to double jeopardy.

10. He submits that the co-accused Ishwar, has already been discharged in the present FIR by this Court by order dated 03.09.2024, passed in CRL.M.C. 5376/2024 and connected matters, on the ground that he had been exonerated in the departmental proceedings by the Appellate Authority.

11. This Court, in order dated 03.09.2024, passed in CRL.M.C. 5376/2024, had observed as under:

*“15. It is not in doubt that the adjudication or any other proceeding in regard to the same set of allegations, can continue along with the criminal proceedings and exoneration in one may not ipso facto result in the other proceedings being declared as nullity in every circumstance.*

*16. However, when two proceedings are initiated on the same set of allegations and are also dependent on the identical evidence, the finding in any one will definitely have a bearing on the other.*

*17. It is not disputed that the departmental proceedings as well as the criminal proceedings in the present case have been initiated by the same department, that is, Delhi Police.*

*18. It is not disputed that the department has accepted the finding in the departmental proceedings.*

*19. Nothing has been brought on record to show that the evidence collected during the course of investigation in the FIR, was not the same as sought to be relied upon by the department in the departmental proceedings.*

*20. The standard of proof in departmental proceedings is undeniably on preponderance of probability whereas in the criminal proceedings, the case has to be proved beyond reasonable doubt. The Hon’ble Apex Court in **Ashoo Surendranath Tewari v. The Deputy Superintendent of Police, EOW, CBI & Anr. : Criminal Appeal No. 575/2020** has held as under:*

*7. A number of judgments have held that the standard of proof in a departmental proceeding,*



*being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt..... 8. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22.12.2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code.”*

12. In the present case as well, nothing has been brought on record to show that the evidence collected during the course of investigation in the FIR, was not the same as sought to be relied upon by the department.

13. The case of the petitioner stands on a similar, if not better, footing than that of co-accused Ishwar as the petitioner was exonerated by the Departmental Authority itself instead of Appellate Authority.

14. Thus, considering that the petitioner has been exonerated in the departmental proceedings where the standard of proof is somewhat lower, the petitioner is entitled for quashing of the present FIR against him as the same was registered on the same allegations and investigated by the same department.

15. In view of the above, FIR No. 7/2024 is quashed *qua* the petitioner, including all consequential proceedings arising therefrom.

16. The present petition is allowed in the aforesaid terms.

**AMIT MAHAJAN, J**

**SEPTEMBER 23, 2024**