



\$~15

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

+ **W.P.(CRL) 50/2025 & CRL.M.A. 458/2025**

SHAILENDRA KUMAR @ SHILENDER SINGHPetitioner

Through: Mr. Ravi Ranjan Mishra, Mr. Raj Panda, Mr. Vipin Kumar Pal, Ms. Rupali, Ms. Rasmita Kumari Devi, and Mr. Damodar P., Advocates.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Sanjay Lao, Standing Counsel (Criminal) for the State.
SI Yogesh and HC Indraj, P.S.: Defence Colony.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

17.02.2025

CRL.M.A. 457/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

W.P.(CRL) 50/2025

By way of the present petition filed under Article 226 of the Constitution of India read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks quashing of case FIR No.77/2024 dated 20.07.2024 registered under section 209 of the



Bharatiya Nyaya Sanhita, 2023 ('BNS') at P.S.: Defence Colony, Delhi.

2. Though on the last date of hearing *i.e.*, 10.01.2025, learned counsel for the petitioner had represented that process under section 82 of the Code of Criminal Procedure, 1973 was never served upon him, today counsel submits that on a closer inspection of the trial court record, it transpires that that was not the case.
3. Counsel however argues, that by reason of the settlement reached by him with the complainant, the matter stands settled; the offence stands compounded; and as a consequence, the petitioner has been 'acquitted' in the matter.
4. Counsel draws attention to order dated 12.08.2024 recorded by the learned trial court in CC No.8488/2021, the relevant extract of which reads as follows :

"At this stage, Ld. Counsel for complainant submits that the matter has been amicably settled with the accused and full and final payment towards the cheque in question has been received by the complainant. Hence, permission is sought to withdraw the present complaint. Application is annexed with affidavit of the complainant.

*In view of the submissions made and contents of the affidavit, complainant is permitted to withdraw the present complaint. **Matter stands disposed off accordingly as settled/compounded.** Accused is acquitted for the offence u/s 138 NI Act. Bail bonds if any, be discharged."*

(bold in original)

5. Counsel draws attention to a recent judgment of the Supreme Court in ***Daljit Singh vs. State of Haryana & Anr.***,¹ to submit

¹ 2025 SCC OnLine SC 1



that on a similar factual matrix, though the Supreme Court has observed that section 174-A of the Indian Penal Code, 1860 ('IPC') (equivalent of section 209 of the BNS) is an independent substantive offence and can continue even if the proclamation under section 82 of the Cr.P.C. is extinguished, the Supreme Court has then proceeded to hold that since the appellant in the said case had been acquitted, there was no case for which the appellant's presence was required; and that therefore, the proceedings under section 174-A of the IPC stand closed.

6. Counsel submits, that the principle enunciated by the Supreme Court in *Daljit Singh* is that once an accused is *acquitted* of the main offence, regardless of the fact that section 82 Cr.P.C proceedings may have been initiated against the accused and the accused may have been facing proceedings under section 174-A of the IPC (now section 209 of the BNS), those proceedings under section 174-A of the IPC should be closed.
7. Issue notice.
8. Mr. Sanjay Lao, learned Standing Counsel (Criminal) appears for the State; accepts notice; and submits that in view of the judgment of the Supreme Court in *Daljit Singh*, the court may pass appropriate orders.
9. Though a closer reading of the judgment of the Supreme Court in *Daljit Singh* shows that in that case the Supreme Court proceeded *inter-alia* on the fact that the main offence related to the year 2010 and the money that was subject matter of the dispute stood paid, which is not quite the same in the present



matter, however considering that the complainant in the present case has withdrawn the complaint under a settlement with the petitioner; and the petitioner stands *acquitted* of the main offence under section 138 of the Negotiable Instruments Act 1881, this court is of the view that continuing with the proceedings under section 209 of the BNS would not serve any purpose.

10. Since the offence under section 209 of the BNS has arisen only in the backdrop of the main offence, for which the petitioner has been acquitted, this court considers it appropriate to close the proceedings against the petitioner under section 209 of the BNS.
11. The petition is accordingly allowed, thereby quashing FIR No.77/2024 dated 20.07.2024 registered under section 209 of the BNS at P.S.: Defence Colony, Delhi and closing all proceedings arising therefrom.
12. The petition is disposed-of.
13. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 17, 2025/ak