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

+ CRL.M.C. 1136/2025 & CrI.M.A. 5109/2025

PRABHAT SHARMA

.....Petitioner

Through: Mr. Saurabh Ajay Gupta, Mr. Jayant
Mohan & Ms. Ritika Gupta,
Advocates

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Shoaib Haider, Additional Public
Prosecutor for Respondent-State with
SI Ajeet Singh

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

09.05.2025

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1. The present petition under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 read with Section 482 Cr.P.C. has been filed by the Petitioner seeking quashing of the FIR No.388/2007, under Section 279A IPC, registered at Police Station Delhi Cantt., New Delhi.
2. It is submitted that the Petitioner is a law abiding citizen. On 17.09.2007, the Petitioner had an offer for a job in a Company in the name of Columbus Information Technology Middle East, as he is an IT Professional. He was required to join the office at UAE as per the terms and conditions of the contract. He was granted *visa* for Dubai by UAE Government.
3. The Petitioner left India on 20.10.2007 and started working in the said company as a Consultant. After about three months, he returned to India on 17.01.2008, which proves beyond doubt that he could not be present at the site of the incident which occurred on 02.11.2007.

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4. It is further submitted that Manoj Kumar Rai, who is the Complainant, has submitted a written Complaint dated 02.11.2007 that about 4:30 PM, while he was going towards the Old Base Hospital, a driver in the car bearing registration number DL 3CAX 2773, which was being driven in reckless manner, hit the rear side of his vehicle due to which spring of the vehicle and axle were broken. The driver of the car revealed his name as Prabhat and he was under the influence of alcohol. Thus, the FIR No. 0388/2007 was registered.

5. The Petitioner submits that he was not in India on the date of the incident and was not aware of the registration of the FIR. The summons were executed at his Delhi address, which he had already left, way back in the year 2007. Proclamation proceedings were initiated against him on 26.06.2015 by the learned MM and on 05.07.2016 he was declared *Proclaimed Offender*. No prosecution witness came to be recorded under Section 299 Cr.P.C. despite sufficient opportunities. The case was consigned to record room.

6. The Petitioner was arrested on 09.12.2024 from his home at Allahabad in this FIR case at around 10:00 PM by HC Banty Yadav and was brought to Delhi.

7. Petitioner's medical examination was conducted at Safdarjung Hospital, New Delhi. He was granted regular Bail on 10.12.2024.

8. *Quashing of the FIR is sought on the ground* that his passport clearly establishes that he was not in India on the date of the incident. He was not aware of the registration of the impugned FIR as he had left the country and his address was also changed as he had shifted from Delhi to Allahabad in the year 2007, and the address mentioned in the FIR is the address

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mentioned on the Registration Certificate of the car. Thus, the summons could not be served upon the Petitioner because of change of address, due to which he was unable to appear before the Court of learned MM. It is submitted that no offense under Section 279 IPC read with Section 185 Motor vehicle Act has been committed by the Petitioner.

9. Reliance has been placed upon Pepsi Foods Ltd. vs. Special Judicial Magistrate (1998) 5 SCC 749 to assert that summons against him are liable to be quashed. It is claimed that he has been falsely implicated in the present case and the FIR be quashed.

10. *Learned Additional Public Prosecutor for Respondent-State* has appeared on advance notice and he submits that not only was the accused apprehended on the spot, but his MLC was also conducted wherein the name of the accused has been noted as Prahlad i.e. is of the Applicant. Therefore, there is no reason for quashing of the charge sheet.

11. **Submissions heard and record perused.**

12. Pertinently the person who was driving the vehicle was not only apprehended on this spot, but his MLC was also prepared wherein he has given his name as that of the Applicant. In case the Petitioner wants to set up a defence that he was not in India on the relevant date and he has a passport endorsement to this effect, no inference can be drawn about his innocence at this stage. It is for the Petitioner to prove that in case he was not in India on the date of the accident, who was driving his car at the time of the accident, in his defence.

13. There is no merit in the present Petition and it is accordingly dismissed.

NEENA BANSAL KRISHNA, J

MAY 9, 2025/r

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