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

+ **W.P.(CRL) 1085/2025**

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.....Petitioner

Through: Mr. Ketan Marwah & Mr.
Rakesh Srivastava, Advs.

Versus

STATE OF NCT DELHI & ANR.

.....Respondent

Through: Mr. Sanjeev Bhandari,
ASC for the State with Mr.
Arjit Sharma & Ms.
Sakshi Jha, Advs.
SI Om Kant Yadav, PS-
Hauz Qazi, Delhi.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **21.07.2025**

1. The present petition is filed seeking quashing of the externment order dated 05.11.2024 (hereafter '**impugned order**') passed by the respondent authority under Section 47 of the Delhi Police Act, 1978 ('**DP Act**'). The petitioner further challenges the order dated 15.01.2025 passed by the Hon'ble Lieutenant Governor thereby dismissing the appeal preferred by the petitioner against the externment order.

2. Briefly stated, the externment proceedings were initiated against the petitioner by the respondent authority by issuing show cause notice under Sections 47/50 of the DP Act on 30.07.2024 on the basis of his involvement in the following cases:



S. No.	FIR No.	Date	Cases	Police Station	Present Status
1.	74/2016	24.03.2016	308/186/332/353/34 of the IPC	Hauz Qazi	Pending Trial
2.	128/2018	20.08.2018	33 of the Delhi Excise Act	Hauz Qazi	Pending Trial
3.	142/2022	07.03.2022	186/353/332/34 of the IPC	Kamla Market	Pending Trial
4.	66/2024	03.03.2024	33 of the Delhi Excise Act	Hauz Qazi	Pending Trial

3. By the impugned order, the petitioner was externed from the limits of NCT of Delhi for a period of 01 year with effect from 12.11.2024. It was noted that the petitioner was involved in 04 cases out of which 2 (being FIR Nos. 74/2016 and 128/2018) were pending investigation, and 2 (being FIR Nos. 142/2022 and 66/2024) were pending trial. It was noted that the petitioner was involved in criminal activities since the year 2016. The respondent authority further took into consideration the statements of the witnesses and noted that the witnesses were not willing to come forward to make a public statement against the petitioner due to apprehensions of safety. It was noted that a being involved in the illicit sale of liquor was hazardous to the society at large and that the same satisfied the criterion under Section 47(a) of the DP Act.

4. It was noted that the petitioner was a habitual offender, and was found to be involved in offences even during the course of the proceedings. Consequently, considering the conduct of the petitioner, the evidence of the prosecution witnesses and the fact that independent witnesses were unwilling to depose against the



petitioner, the petitioner was ~~excluded~~ from the limits of NCT of Delhi for a period of 01 year.

5. Subsequently, the petitioner preferred an appeal against the impugned order which was dismissed by the Hon'ble Lieutenant Governor *vide* order dated 15.01.2025. The Hon'ble Lieutenant Governor noted that the petitioner was involved in four cases out of which 02 cases are for offences of attempt to commit culpable homicide, voluntarily causing grievous hurt and assault or criminal force to deter public servant from discharge of his duty under the IPC and 02 cases under the Delhi Excise Act which adversely affected the normal life of the citizens. It was noted that the continuous registration of cases against the petitioner from the year 2016-2024 in two different Police Stations showed the petitioner is a desperate person with no regard for law. Consequently, by order dated 15.01.2025, the Hon'ble Lieutenant Governor dismissed the appeal filed by the petitioner.

6. The learned counsel for the petitioner submits that the impugned order is erroneous and is liable to be set aside. He submits that the externment order fails to satisfy the conditions prescribed for externment under Section 47 of the DP Act. He submits that the requirement of 'habituality' has not been fulfilled in the present case. He submits that the impugned order cites four FIRs which were registered in the years 2016, 2018, 2022 and 2024. He submits that only one FIR was registered against the petitioner in the year 2024 immediately preceding the commencement of the externment proceedings, and that the same fell short of the requirement stipulated under the *Explanation* to Section 47(c) of the DP Act which mandates that a person who during the period of one year immediately preceding the commencement of action under Section 47 is involved in a



minimum of three occasions you be deemed to have habitually committed the act.

7. He submits that the petitioner has not been convicted in any case. He submits that no evidence of public fear or witness intimidation has been brought forth, and that only a vague reference to public fear or in-camera statements does not suffice to extern the petitioner.

8. He submits that there existed no live and proximate link between the conduct of the petitioner and his consequential externment. He submits that the petitioner has already undergone externment for a period of 8 months. He submits that the petitioner has to provide for his wife and 2 minor children and prays that the impugned order be set aside.

9. *Per contra*, the learned Additional Standing Counsel vehemently opposes the grant of any relief to the petitioner. He submits that the statements of the witnesses recorded in-camera depicts that the witnesses are apprehensive of harm being caused to them, and are afraid of the petitioner. He submits that the petitioner is involved in four FIRs all of which, at this stage, are pending trial.

10. Before resorting to venture into the adequacy of the impugned order, it is pertinent to examine Section 47 of the DP Act. The same reads as under:

*“47. Removal of persons about to commit offences.—
Whenever it appears to the Commissioner of Police—
(a) that the movements or acts of any person are causing or
are calculated to cause alarm, danger or harm to person or
property; or
(b) that there are reasonable grounds for believing that such
person is engaged or is about to be engaged in the
commission of an offence involving force or violence or an
offence punishable under Chapter XII, Chapter XVI, Chapter
XVII or Chapter XXII of the Indian Penal Code (45 of 1860)
or under section 290 or sections 489A to 489E (both
inclusive) of that Code or in the abetment of any such*



offence; or

(c) that such person—

(i) is so desperate and dangerous as to render his being at large in Delhi or in any part thereof hazardous to the community; or

(ii) has been found habitually intimidating other persons by acts of violence or by show of force; or

(iii) habitually commits affray or breach of peace or riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or

(iv) has been habitually passing indecent remarks on women and girls, or teasing them by overtures;

and that in the opinion of the Commissioner of Police witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property, the Commissioner of Police may, by order in writing duly served on such person, or by beat of drum or otherwise as he thinks fit, direct such person to so conduct himself as shall seem necessary in order to prevent violence and alarm or to remove himself outside Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or part thereof, as the case may be, from which he was directed to remove himself.

Explanation.—A person who during a period within one year immediately preceding the commencement of an action under this section has been found on not less than three occasions to have committed or to have been involved in any of the acts referred to in this section shall be deemed to have habitually committed that act.”

11. Section 47 of the DP Act lays down the instances where an individual can be removed from the territory of Delhi. In doing so, Section 47 of the DP Act specifies the following instances where an individual can be removed: where the movement of the individual is of such nature so as to cause alarm, danger or harm; or that such individual is or about to commit offences under the IPC; or that such individual is so desperate or dangerous as to render his being in Delhi or any part thereof hazardous to the community; or that such individual has been habitually intimidating other persons, committing affray or passing indecent remarks or overtures to women and girls. In addition to the



instances as enumerated above. In conjunction it is found that no person, out of fear, is coming forward to depose against such individual, then such individual can be removed from the territory of Delhi.

12. Accordingly, Section 47 of the DP Act translates to two aspects: *Firstly*, the Commissioner of Police ought to be satisfied that the individual is dangerous and that allowing such person to loom large would be hazardous to the community or that there are reasonable grounds to believe that such person would engage in the commission of offences; and *secondly*, in the opinion of the Commissioner of Police, witnesses are not willing to come forward to depose against such individual apprehending safety to their person or property.

13. From a perusal of the record and the impugned order, this Court is of the opinion that there does not exist sufficient reason to remove the petitioner from the NCT of Delhi. The record reveals that the petitioner was made accused in 4 cases in the years 2016, 2018, 2022, and 2024. As pointed out, all the cases, at this stage, are pending adjudication.

14. While passing the impugned order, in addition to noting the involvement of the petitioner in 4 cases punishable under the IPC and the Delhi Excise Act, the respondent authority had also considered the statements of the witnesses recorded in-camera proceedings and noted that the witnesses were not willing to come forward to make a public statement against the petitioner due to apprehensions of safety.

15. This Court has perused the statements of the public witnesses against the petitioner. Upon an examination of the statements of the witnesses, it appears that the said witnesses whose statements have been recorded are not such persons who



had lodged a complaint against the petitioner in the pending trials.

16. A deeper scrutiny of the statements of the witnesses further reveals that the same are identical in nature and do not inspire confidence. In order to allow the countenancing of the impugned order, it is imperative that there is a clear and present danger, which in the opinion of this Court has not been highlighted in the present case.

17. Even otherwise, the petitioner was externed from the limits of NCT of Delhi for a period of 1 year with effect from 12.11.2024, and only a small portion of the externment period is left.

18. In view of the above, considering that the statements of the public witnesses which formed the basis of the externment of the petitioner fail to inspire confidence, the impugned order passed by the Additional Deputy Commissioner of Police and the appellate order dated 15.01.2025 are quashed.

19. The petition stands disposed of in the aforesaid terms.

AMIT MAHAJAN, J

JULY 21, 2025