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

+ CRL.REV.P. 324/2022 & CRL.M.A. 10472/2022

NIZAM SHEIKH

.....Petitioner

Through: Mr. Vijay Kinger, Ms. Roopa Nagpal,
Mr. Hemant Kumar, Mr. Prashant
Choudhary, Advocates

versus

STATE -GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State with Mr. Sunil Singh Rawat,
Mr. Vineet Awana, Advocates along
with ASI Sukhpal Singh, PS ODRS.

+ CRL.REV.P. 625/2022 & CRL.M.A. 19294/2022

NIZAM SHEIKH

.....Petitioner

Through: Mr. Vijay Kinger, Ms. Roopa Nagpal,
Mr. Hemant Kumar, Mr. Prashant
Choudhary, Advocates

versus

STATE -GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State with Mr. Sunil Singh Rawat,
Mr. Vineet Awana, Advocates along
with SI Vikas Kumar, PS Special
Staff, East Distt.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA



ORDER

15.10.2025

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1. Mr. Vijay Kinger, counsel for the Petitioner, states that the challenge in the present revision petitions is confined to the charge under Section 413 of the Indian Penal Code, 1860¹. He submits that for such a charge to sustain, it is necessary to demonstrate that the Petitioner habitually deals in stolen property, which requires proof of a previous conviction under Section 411 of the IPC.

2. He further submits that, as of now, there is no such conviction. Moreover, since the prosecution has led its evidence and failed to produce any evidence of the Petitioner's prior conviction, the charge under Section 413 of the IPC is not sustainable. In support, counsel for the Petitioner relies on the judgment of ***Kotta Gopinarayan Choudhary v. State of Orissa***², passed by the Orissa High Court, as well as the judgment of this Court in ***Ajai Sethi v. State***³, wherein it was held as follows:

“In order to convict a person under section 413 of the Indian Penal code, the most important ingredient is that a person must be a habitual receiver of stolen goods. He must be a person, who is in the habit of receiving stolen properties and this section cannot be applied in case of a single act. The element of repetition is mandatory. Mere pendency of FIRs or a person facing trial but in the absence of a conviction, a conviction under section 413 of the Indian penal code would be unjustifiable”.

3. Mr. Vijay Kinger very fairly states that now that the prosecution evidence is complete, the Petitioner be given the liberty to raise all his grounds before the Trial Court at the stage of arguments. He requests that the Trial Court be directed to consider the aforementioned contention,

¹ “IPC”

² 2003 CRI. L.J. 4050

³ Cri. A. No. 788/2017



including the case laws cited, and take a decision thereon, at the appropriate stage.

4. Leave and liberty as prayed for are granted.
5. The Trial Court shall consider the Petitioner's grounds urged in the present petition at the stage of final arguments, including the case laws cited above.
6. With the above directions, the present petitions are disposed of along with the pending application(s).
7. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

OCTOBER 15, 2025/ab