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

+ **CRL.REV.P. 160/2025 & CrI.M.A. 12565-66/2025**

SUSHIL KUMAR

.....Petitioner

Through: Mr. Puneet Jaiswal, Mr. Nishant
Manvar, Mr. Shubham Srivastava &
Mr.Sandeep Sehrawat, Advocates

Versus

STATE OVT OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan,
Additional Public Prosecutor for
Respondent-State with ACP Jarnail
Singh & SI Bheem Singh

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
25.04.2025

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1. The present Review Petition under Section 442 read with Section 528 of *The Bhartiya Nagrik Suraksha Sanhita, 2023* has been filed by the Petitioner seeking setting aside of the Order dated 19.02.2025 passed by the learned Additional Session Judge in case FIR No.428/2024, under Sections 74/75/76/64(1)/127(2)/351 (2) of *Bhartiya Nayay Sanhita, 2023*, registered at Police Station Subzi Mandi, Dehi and direction to the Respondent-State to further investigate the matter.
2. The learned Trial Court vide impugned Order has dismissed Application filed by the Petitioner seeking discharge and has framed Charge against the Petitioner.

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3. Learned Counsel for the Petitioner has submitted that further investigations are crucial for finding the truth in the matter for which urgent directions are mandated. It is further submitted that during the investigation, an Application had been filed by the Petitioner seeking investigation on certain aspects which form part of the Charge-sheet, but no investigation has been carried out.

4. The Petitioner in his Application seeking Discharge, had also sought further investigation which has not been considered by the learned Trial. Details have been given of her previous enmity and multiple litigations with certain persons and Prosecutrix had been planted by them for false implication of the Petitioner.

5. Learned Counsel has also submitted that he requires the Call Detail Record of the Prosecutrix to prove her presence at the place of incident and also to prove that she had made more than 30 calls to one individual, reflecting the complicity of implicating the Petitioner. Moreover, an Intern was also present at the time of the incident, whose statement was also recorded but the same has not formed part of the Charge-Sheet.

6. ***Submissions heard and record perused.***

7. Essentially, in the Discharge Application, on which much reliance has been placed by the Petitioner, it has been detailed that this FIR made by the Prosecutrix is motivated for the reasons stated therein. Nothing is mentioned in the Discharge Application on the basis of which further investigation is required. The statement of the learned Counsel for the Petitioner that there was a request for further investigation on stated points in the Discharge Application, is therefore not supported by the Discharge Application.

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8. The learned Counsel for the Petitioner has referred to multiple litigations in regard to which a Complaint made by him about the corruption in the Transport Department, which has led to registration of multiple FIRs and litigations. His claim is that the present FIR is consequence of his earlier avenger which should have been inquired into and formed part of the Charge Sheet.

9. There may have been previous litigations and according to the Petitioner, the present FIR may be motivated, but that in itself cannot subject matter of investigation of the matter. Rather, it is a matter of defence which the Petitioner is at liberty to adduce at the appropriate stage either by cross-examination or by adducing own evidence. Another request is made for making the Call Detail Record of the mobile of the Prosecutrix available to establish her location. But from the submissions made, it is evident that the Petitioner already has an access to the Call Detail Record which he may put to the witness at the relevant stage.

10. It is pertinent to observe that no such Application had been filed before the learned MM at the time of taking cognizance or at the stage of passing of Order on Charge. There is no merit in the present Revision Petition, which is hereby dismissed along with pending Application.

11. This is without prejudice to the rights of the Petitioner to pursue appropriate remedy before the learned Trial Court.

NEENA BANSAL KRISHNA, J

APRIL 25, 2025

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