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

+ **CRL.M.C. 2084/2021**

MANAK BANSAL

.....Petitioner

Through: Mr. Harshit Jain, Mr. Shubham Singh,
Mr. Rahul Kumar and Mr. Sajan
Kumar, Advocates.

versus

STATE

.....Respondent

Through: Ms. Meenakshi Dahiya, Ld. APP for
the State with SI Narendra Kumar
P.S. Mehrauli.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

04.03.2025

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1. A Petition under Section 482 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.' hereinafter) has been filed for quashing of the FIR No.0164/2016 dated 18.01.2016 under Section 188 of the *Indian Penal Code, 1860* ('IPC' hereinafter) at P.S. Mehrauli and the consequent proceedings arising there from.

2. It is submitted in the Petition that FIR No.0164/2016 was registered on 18.01.2019 on the allegations that on 17.01.2016 during the marriage of the daughter of the Petitioner in Tivoli Gardens, Chattarpur, Delhi allegedly Laser Lights were being used which was in violation of the Notification of the Ministry of Home Affairs. After a lapse of three years, the Petitioner joined the investigations on the directions of the Investigating Officer in April, 2019. The Chargesheet had been filed and the cognizance taken by the learned



M.M on 07.12.2020.

3. The quashing of the FIR has been sought on the ground that maximum punishment under Section 188 IPC would be six months and the Chargesheet has been filed after 3½ years. The Chargesheet was barred by limitation and on this ground itself it is liable to quashed.

4. Furthermore, the Complaint of an offence under Section 188 IPC was required to be made by a public servant under Section 195(1)(a) of Cr.P.C. Since, there is no compliance of this Section, the Chargesheet is liable to be quashed on this ground as well.

5. *Learned Prosecutor submits that the Status Report* has been filed, wherein it has been stated that on 17.01.2016 on the basis of a PCR call, DD No. 65A was recorded and subsequently the FIR was registered. The I.O SI Bansilal along with Const. Pradeep had visited the Tivoli Garden, Chhattarpur where he found the wedding ceremony was going on and DJ was playing and Laser beams were blinking towards the sky. On inquiry, it was found to be the wedding ceremony of Ms. Nupur Bansal. The Tivoli Management had already been briefed against the use of Laser Beams, despite which this ceremony was organized by Mr. Parag Bansal in violation of MHA Notification No.F-11036/1/2010/NVTL dated 09.09.2010 by using laser lights which causes distraction to aero planes and the same is dangerous to the safety and security of the passengers and aircrafts.

6. One black colour box with two professional wireless microphone receiver (DVON) using laser lights was seized by the IO.

7. The permission under Section 195 Cr.P.C. was obtained to



prosecute the accused and consequently, Chargesheet was filed.

8. **Submissions heard and record perused.**

9. The *first ground* on which the cognizance on the Chargesheet has been challenged is that **it is barred by limitation**. The alleged incident is of 18.01.2016 whereby allegedly the Petitioner was found using Laser Lights in the marriage of his daughter.

10. The maximum punishment prescribed under Section 188 IPC is Simple Imprisonment for a term which may extend to one month or with a fine which may extend to Rs.200/- in case of violation of the promulgation by a Public Servant and intends to cause obstruction, annoyance, injury or risk thereof. However, in case the disobedience causes danger to human life, health or safety or causes or tends to cause a riot or affray, the maximum punishment is of six months or with fine which may extend to Rs.1000/- or with both. Even if the maximum sentence prescribed under Section 188 is taken, it is six months.

11. **Section 468 of the Code of Criminal Procedure** provides that the limitation for filing the Chargesheet is one year if the offence is punishable with imprisonment for a term not exceeding one year. This implies that the Chargesheet should have been filed within a period of one year from the date of commission of the offence, i.e. 18.01.2016.

12. Admittedly, the Chargesheet has been filed on 07.12.2020 on which date the cognizance was taken by the learned ACMM. Clearly it is beyond the period of one year and the cognizance was barred by limitation under Section 468 Cr.P.C.

13. Pertinently, the Prosecution could have sought condonation of



delay by moving an Application, but no such Application for condonation of delay got filed. The cognizance is bad in law and the Chargesheet is liable to be quashed on this ground itself.

14. The **second ground** taken on behalf of the Petitioner is that for taking cognizance for an offence under Section 188, the formal Complaint from the Authority is required in terms of Section 195(1)(b) of the Code of Criminal Procedure. The cognizance has not been taken on the complaint of the public servant and the cognizance is bad on this account as well.

15. In the Chargesheet, it is mentioned that the Complaint under Section 195 Cr.P.C was obtained and thereafter, the Chargesheet was filed in the Court. The Complaint under Section 195 Cr.P.C made by Assistant Commissioner of Police had been annexed along with the Chargesheet.

16. The Order dated 07.12.2020 *vide* which cognizance has been taken mentions “*Police report and documents perused. I take cognizance of the offence. Issue summons to the accused through IO for 09.12.2020*”.

17. From the impugned Order, it is evident that the cognizance has not been taken on the Police report; essentially the cognizance has been taken on Chargesheet and the documents submitted therein. There is no reference of taking cognizance on the Complaint under Section 195 Cr.P.C. filed on behalf of ACP.

18. Be that as it may, there is a technical lacunae in the Order taking cognizance. However, even if it is held that the learned Trial Court had perused the Complaint under Section 195 Cr.P.C. while



taking cognizance, it cannot be overlooked that the present Chargesheet has been filed beyond a period of limitation. Therefore, the Chargesheet and the proceedings emanating therefrom are hereby, quashed.

NEENA BANSAL KRISHNA, J

MARCH 4, 2025/va/rk