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

+ **CRL.M.C. 6277/2023 & CRL.M.A. 23508/2023**

SH. N.D. SHARMA

.....Petitioner

Through: Mr. Satyendra Kumar, Ms. Sunita
Bhardwaj and Mr. Shivam B.,
Advocates.

versus

THE STATE & ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State
SI Seema with HC Vikram, PS
Dwarka South.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

12.02.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Cr.P.C. read with Article 227 of the Constitution of India seeks the following prayer:

“i. Quash the FIR No. 0344/2021 dated 23.07.2021 U/s 280/290 IPC P.S.

Dwarka South, Dwarka, New Delhi.

ii. Quash the summoning order dated 22.08.2022 issued by the Court of Ms. Kratika Chaturvedi, Ld. MM, South West District, Dwarka Courts, New Delhi in Cr. Case No. 7977/2022 and FIR No. 0344/2021 titled as “State vs. N.D. Sharma”.

iii. Quash the Notice dated 24.05.2023 framed U/s 283/290/506 IPC by the Court of Ms. Kratika Chaturvedi, Ld. MM, South West District, Dwarka Courts, New Delhi in Cr. Case No. 7977/2022 and FIR No.0344/2021 titled as “State Vs. N.D. Sharma”.

iv. Call for the trial court record in Criminal Case No. 7977/2022 FIR No. 0344/2021 case titled as “State Vs. N.D. Sharma” pending in the Court of Ms. Kratika Chaturvedi, Ld. M.M. South West District, Dwarka Courts, New Delhi.



v. Pass any other or further order (s)/directions, which this Hon'ble Court may deem fit and proper in the given facts and circumstances of the present case.”

3. The present FIR was registered at the complaint of respondent no.2 alleging that the petitioner had made illegal constructions outside his house without the permission of Municipal Corporation of Delhi (hereinafter, 'MCD'), which was causing obstructions to the people in the street. Thereafter, FIR No. 0344/2021 was registered under Sections 280/290 of the IPC at PS Dwarka South. Subsequently, during investigation, on a statement made by respondent no. 2, Section 506 of the IPC was also added. After investigation, chargesheet was filed on 22.06.2022 under Sections 283/290/506 of the IPC. Thereafter, learned Metropolitan Magistrate took cognizance of the offences and on 24.05.2023, notice under Section 251 of the Cr.P.C. was framed against the present petitioner under Sections 283/290/506 of the IPC. The trial in the present chargesheet has commenced and respondent no. 2/complainant was examined as PW-1 on 24.07.2023.

4. Learned counsel on behalf of the petitioner submits that the latter is a retired Air Force personnel and a senior citizen. It is argued that the alleged obstruction has since been removed and photographs of the same have been annexed alongwith the present petition. In view of the same, it is submitted that the petition should be quashed. It is further argued that Section 506 of the IPC was added in a *malafide* manner as there was no allegation with respect to the same made in the initial complaint.

5. In terms of the order dated 31.08.2023, the Investigating Officer has placed on record a Status Report dated 20.11.2023 authored by SHO PS Dwarka South. As per the same, the encroachment has been removed,



however, at the time when the FIR was registered, the obstruction had existed and photographs with respect to the same have also been placed on record. Removal of encroachment after the registration of FIR will not come to the benefit present petitioner inasmuch as on the date of registration of FIR, the offence *prima facie* stood committed. It is further noted that the trial is pending in the present FIR and it is at the stage of prosecution evidence. The relevant materials have already been placed on record before the learned Metropolitan Magistrate and this Court cannot quash the proceedings merely on the ground that the encroachment has now been removed.

6. In view of the fact that the petitioner is a senior citizen, his appearance before the learned Trial Court is exempted through counsel, unless required by the learned Trial Court for any specific purpose.

7. The petition is dismissed and disposed of in the aforesaid terms.

8. Pending application(s), if any, also stands disposed of.

9. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present petition.

10. Order be communicated to the learned Trial Court for necessary information and compliance.

11. Order be uploaded on the website of this Court, *forthwith*.

FEBRUARY 12, 2025/Pc **AMIT SHARMA, J**
Click here to check corrigendum, if any