



\$~43

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

+ **CRL.M.C. 7089/2023& CRL.M.A. 26448/2023**

MONIKA MAJUMDAR

.....Petitioner

Through: Mr. Yatharth Rohila and Mr. Nihal
Singh Shekhawat, Advocates.

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for the State.
SI Ramvatar, PS Vasant Vihar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

%

12.03.2025

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Section 482 of the Cr.P.C.
seeking the following prayers: -

“(i) Pass an order Quashing the FIR No. 51/2019, Under Sections 3 of Delhi Prevention of Defacement of Property Act, registered at Police Station Vasant Vihar dated 30.03.2019, pending before Ld. CMM, Patiala House Courts, New Delhi and the subsequent proceedings emanating thereof;
and/or

(ii) Pass any other or further order(s) /direction(s) which the Honorable court may deem fit and proper in the interest of justice.”

3. Brief facts necessary for the disposal of the present case are that on 03.10.2018, the Advertisement Department of the South Delhi Municipal Corporation (hereinafter referred to as, ‘SDMC’) had issued a notice bearing No. CO(Advtt.)/SZ/SDMC/2018/19/d-531 to M/s Rich Feel Trichology Centre (hereinafter referred to as, the ‘Offending Organisation’) asking them to remove an unauthorized advertisement displayed at their property no. 6,



Basant Lok, 2nd Floor, New Delhi-110057. It is the petitioner's case that she had joined the Offending Organisation as "Assistant Centre Head" on 03.12.2018, *i.e.*, after the issuance of the letter dated 03.10.2018. Thereafter, Advertisement Inspector at SDMC filed a complaint on 18.03.2019 at P.S. Vasant Vihar for the registration of an FIR against the Owners/Partners/Directors of the Offending Organisation. It was mentioned in the complaint that the Offending Organisation was earlier directed to ensure that only one self-signage of the size not exceeding 2.5 square metres (approximately 27 sq.ft) and one self signage display of height not more than 4 feet (X/Multiple) front entrance width of business property which was permissible under the guidelines contained in Outdoor Advertisement Policy, 2017. It was further stated that the violation of the same would amount to lodging of a complaint under Section 3 of the Delhi Prevention of Defacement of Property Act, 2007 (for short, 'DPDP Act'). Based on the said complaint, the case FIR No. 51/2019 was registered on 30.03.2019 at P.S. Vasant Vihar under Section 3 of the DPDP Act. After the completion of investigation, chargesheet was filed before the Court of competent jurisdiction on 22.08.2019 wherein, the petitioner was arrayed as accused.

4. Learned counsel for the petitioner submits that allegations against the present petitioner are in respect of the violation of the letter issued by SDMC. It is further submitted that, even if the allegations stated in the FIR are taken at face value then, the offence alleged against the petitioner is not made out inasmuch as allegation is regarding the non-reduction of the size of the advertisement board.

5. *Per contra*, learned APP for the State submits that the offence alleged against the petitioner is account of the violation of the directions issued in the



letter issued by SDMC and chargesheet has been filed before the Court of competent jurisdiction and, therefore, the present FIR need not be quashed at this stage.

6. Heard learned counsel for the parties and perused the record.

7. It is a matter of record that, even as per the case of the prosecution, the allegations in the present FIR against the present petitioner is that, on 26.02.2019 during inspection carried out by Area Advertisement Inspector of the Advertisement Department, South Delhi Municipal Corporation, it was found that M/s Rich Feel Trichology Centre of which the present petitioner was the Assistant Centre Head had not reduced the size of their self-advertisement in terms of the Letter No. CO(Advtt.)/SZ/SDMC/2018-19/D-531 dated 03.10.2018 issued by SDMC.

8. The relevant portion of complaint dated 18.03.2019 filed by the South Delhi Municipal Corporation to the SHO, Vasant Vihar is reproduced as under: -

“A notice was issued to M/s Rich Feel Trichology Center vide this office letter No.CC (Advtt.)/SZ/SDMC/2018-19/D-531 dated 03-10-2018 with the direction to reduce the display size of their self advertisement and ensure that only one self signage of the size not exceeding 2.5 sqm. (27 sqft approx.)/one self signage display of height not more than 4 feet (X/multiple) front entrance width of business premise is displayed/put up at business property (as permissible under the guidelines contained in Outdoor Advertisement Policy-2017, as approved by the Hon’ble Supreme Court) else the South Delhi Municipal Corporation might lodge a complaint u/s 3 of Delhi Prevention of Defacement of Property Act, 2007 against their President, Chairman, Director, Owner, Partner, Manager, Secretary, Agent or any other officer or person concerned with the management of the company/against owner of building, as applicable

During an inspection carried out by the undersigned, being Area Advertisement Inspector of the Advertisement Department, South Delhi



Municipal Corporation on 26.02.2019 in the area of Basant Lok, Vasant Vihar, New Delhi-110057, it was found that M/s Rich Feel Trichology Center has not reduced the size of their self advertisement as requisite vide aforesaid notice.”

(emphasis supplied)

9. Section 3 of the DPDP Act, 2007 has been reproduced as under: -

“3. Penalty for defacement of property:

(1) Whoever defaces any property in public view by writing or marking with ink, chalk, paint or any other material except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

(2) When any offence is committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons (whether incorporated or not) then, such other person and every president, chairman, director, partner, manager, secretary, agent or any other officer or persons connected with the management thereof, as the case maybe, shall, unless he proves the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

(3) The aforesaid penalties will be without prejudice to the provisions of Section 425 and Section 434 of the Indian Penal Code, 1860 (45 of 1860) and the provisions of relevant Municipal Acts.”

10. The word, ‘defacement’ has been defined under the DPDP Act under Section 2(a) of the said Act which reads thus: -

Definitions:

(a) “defacement” includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word "deface" shall be construed accordingly;

11. Learned counsel for the petitioner has relied upon the judgment of **T.S. Marwah v. State, 2008 (4) JCC 2561**, wherein a Coordinate Bench of this Court had quashed the charge framed against the petitioner therein for the



offence punishable under Section 3(1) of the West Bengal Prevention of Defacement of Property Act, 1976 (akin to Section 3(1) of the DPDP Act) by observing as under: -

“A bare look at Section 3(1) goes to show that the offence committed therein would be punishable only if the defacement is done in respect of property in public view by writing or marking with ink, chalk, paint or any other material. There is nothing in the charge sheet filed against the petitioner to indicate that any property was defaced by writing or marking with ink, chalk, paint or any other material. The only allegation is that the banner was put on an electric pole. **Mere putting of the banner will not get covered by section 3 (1) of The West Bengal Prevention of Defacement of Property Act, 1976.** It is true that Sec. 2(AA) defines defacement which includes impairing or interfering with the appearance, beauty, damaging, distinguishing, spoiling or injuring in any other way whatsoever, but Section 3(1) is not all embracing and it refers only such type of defacement for the purpose of prosecution as is done by writing or marking with ink, chalk, paint or any other material.”

(emphasis supplied)

12. In the present case, admittedly, there is no allegation that the present petitioner had defaced the public property in any manner as provided in the above mentioned provisions of the DPDP Act.

13. In the complaint filed by the SDMC, it is stated that despite a direction to reduce the displayed size of the organisation's self-advertisement, the same was not done and what was put up by the said organisation was not permissible under the guidelines contained in Outdoor Advertisement Policy, 2017. Thus, at best, the case of the SDMC was for non-compliance of their policy for which the necessary action could have been taken in accordance with law, however, the same would not bring the case within the meaning of Section 3 read with Section 2(a) of the said Act. It is pertinent to note that the SDMC in the complaint has stated that the display size of the illegal self-advertisement



was not reduced, thereby contravening the Delhi Municipal Corporation Act, 1957 (for short, 'DMC Act'). In other words, as per the SDMC, if the size of the self-advertisement was reduced then, the subject signage would not have contravened the provision of DPDP Act.

14. Recently, a Coordinate Bench of this Court in **HDFC Bank Ltd. v. The State & Anr.** (2024:DHC:6243) *vide* judgment dated 08.08.2024 in **CRL.M.C. 3198/2019** held as under: -

“20. The judgment in T.S. Marwah & Ors. v. State (supra) was passed by this Hon'ble Court way back in the year 2008. Despite the same, FIRs were registered on subsequent occasions in relation to similar allegations. As noted above, even the present FIR was registered in the year 2019. It is not disputed that accused persons in such cases have been acquitted by relying on the aforesaid judgment. It has not been brought on record that such orders have been challenged by the respondents. The respondents were clearly aware of the law that no offence is made out under Section 3 of the DPDP Act and the allegations as levelled in the present case would ultimately lead to an acquittal of the petitioner.”

15. Thus, in view of the aforesaid, it is the considered opinion of this Court that even if the allegations are taken at their face value, no offence under Section 3 of the DPDP Act is made out against the petitioner.

16. The petition is allowed and the FIR No. 51/2019, under Section 3 of the Delhi Prevention of Defacement of Property Act, 2007, registered at P.S. Vasant Vihar and all other consequential proceedings emanating therefrom, including the chargesheet pending before the concerned Court is hereby quashed.

17. Petition is allowed and disposed of accordingly.

18. Pending application(s), if any, also stand disposed of.

19. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.



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

AMIT SHARMA, J

MARCH 12, 2025/sn

Click here to check corrigendum, if any