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

+ CRL.M.C. 4434/2025, CRL.M.A. 19286/2025

GOPESH MEHTA & ORS.

.....Petitioners

Through: Mr. Pratyaksh Sikodia, Advocate.

Versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Tarang Srivastava, APP for State
with Ms. Manju Bala, SI, CB,
Sunlight Colony, Delhi

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.07.2025

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (Corresponding to Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of FIR No. 178/2023 dated 29th July, 2023, registered under Sections 3 and 4 of Delhi Public Gambling Act, 1955³ at P.S. Crime Branch, Delhi. The chargesheet stands filed, however, arguments on the point of charge are pending. Nonetheless, counsel for the Petitioners emphasises that the present FIR should be quashed at this stage itself.

2. The case of the prosecution, as set out in the chargesheet, is that on 28th July, 2023, at around 9:00 PM, secret information was received that two

¹ "BNSS"

² "CrPC"

³ "DPG Act"



individuals – Prashant Goyal and Vikas – were jointly organizing gambling activities at Farm No. 23/1, Dara Farm, Ram Mandir Road, Vasant Kunj, New Delhi, and were operating a common gaming house. Further, it was informed that if a raid was conducted on the same day, Prashant Goyal, Vikas, along with other individuals involved in the gambling activities, could be apprehended. Acting on this information, and after verifying its credibility, a raid was conducted at the aforementioned location at around 11:15 PM. At the time of the raid, 30 individuals were found present at the spot, either seated or gathered around tables, actively engaged in gambling. Among those present were the three Petitioners herein. The identities of all individuals present were then ascertained and the gambling material, which included playing cards, chips of various colours, and cash amounting to INR 4,58,520/-, recovered from the premises was seized. During the course of investigation, a site plan was prepared, and the statements of all accused persons were recorded. Based on the investigation, the present FIR was registered.

3. Counsel for the Petitioners submits that the Petitioners were merely present at a private social gathering organized at the farmhouse, where they were engaged in purely recreational activities, specifically playing a game of ‘poker’. It is contended that ‘poker’ is recognized as a game of skill and not of chance; the activities conducted were neither commercial nor open to the public and lacked any of the defining features of gambling, or a gaming house, as contemplated under the DPG Act. It is further submitted that, in the absence of any credible input, the police unlawfully proceeded to conduct the raid, and such an action, purportedly based on an alleged violation of the DPG Act, is wholly untenable in law.



4. He further submits that the chargesheet itself does not specify the nature of the game allegedly being played at the time of the raid. In support, reliance is placed on the judgment of **Gajendra v. The State of Maharashtra & Anr.**⁴, to contend that the facts of the present case are squarely covered by the said decision, and therefore, the FIR and all proceedings emanating therefrom deserve to be quashed.

5. Heard. It is pertinent to note that the inherent jurisdiction of this Court under Section 528 of BNSS (corresponding to Section 482 of CrPC) must be exercised sparingly, and with abundant caution. In this regard, the Supreme Court, in **Indian Oil Corporation v. NEPC India Limited and Others**,⁵ has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings, and made the following observations:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few— Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case

⁴ 2017 SCC OnLine Bom 4176

⁵ (2006) 6 SCC 736.



alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not

(emphasis supplied)

6. As per the case of the prosecution, pursuant to a raid, gambling material – including playing cards, chips of various colours, and cash amounting to INR 4,58,520 – was recovered from the farmhouse. The Petitioners contend that they were merely playing ‘poker’, which they claim is a game of skill and not of chance. However, in the opinion of this Court, the questions such as whether the gambling activity comprised only of playing ‘poker’ or any other activity, are all disputed facts which are to be



determined conclusively during trial, and not at this preliminary stage. As per the prosecution, the recovery of chips and other gambling material, including cash amounting to INR 4,58,520, from the farmhouse is sufficient to *prima facie* implicate the Petitioners.

7. In any event, it must also be emphasised that the judgment relied upon by the Petitioners in ***Gajendra*** (supra) is clearly distinguishable on facts. In that case, the Petitioners were found playing ‘rummy’, and the Court held that ‘rummy’ is a game of skill and does not amount to gambling under the applicable law. However, in the present case, the Petitioners’ emphasis on ‘poker’ being a game of skill – contending that it does not fall within the ambit of gambling – is based on the assumption that only ‘poker’ was being played at the farmhouse. However, the prosecution’s case does not rest merely on the game of ‘poker’ being played; rather, on a brief perusal of the chargesheet, it becomes clear that the case of prosecution, in fact, rests upon the specific information received, the allegations involved on the basis of interrogation, and the gambling material recovered during the raid, including a substantial amount of cash, playing cards, and chips of various denominations, all of which suggest the occurrence of gambling activities.

8. In such circumstances, at this stage, the Court is of the opinion that the present case is not a fit case for exercising its jurisdiction under Section 528 of BNSS (corresponding to Section 482 of CrPC) to quash the FIR or the proceedings emanating therefrom. In this regard, a reference is made to the decision of the Supreme Court in ***Rathish Babu Unnikrishnan v. State (NCT of Delhi)***,⁶ wherein the criteria for the exercise of inherent jurisdiction to quash criminal proceedings, at a preliminary stage, has been delineated as



under:

*“14. The parameters for invoking the inherent jurisdiction of the Court to quash the criminal proceedings under S.482 CrPC, have been spelled out by Justice S. Ratnavel Pandian for the two judges’ bench in **State of Haryana v. Bhajan Lal** [1992 Supp (1) SCC 335 : AIR 1992 SC 604], and the suggested precautionary principles serve as good law even today, for invocation of power under Section 482 of the Cr.P.C.*

‘103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.’

*15. In the impugned judgment, the learned Judge had rightly relied upon the opinion of Justice J.S. Khehar for a Division Bench in **Rajiv Thapar** (supra), which succinctly express the following relevant parameters to be considered by the quashing Court, at the stage of issuing process, committal, or framing of charges,*

*‘28. The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. **Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same.***’

16. The proposition of law as set out above makes it abundantly clear that the Court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility

⁶ 2022 SCC OnLine SC 513.



particularly because of the legal presumption, as in this matter. What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.

17. The consequences of scuttling the criminal process at a pretrial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process.”

(emphasis supplied)

9. The grounds and contentions raised by the Petitioners for quashing the FIR are essentially in the nature of defences, or denial of allegations made in the FIR. These do not provide a sufficient basis for this Court to quash the FIR and the proceedings emanating therefrom.

10. *Prima facie*, the allegations outlined in the FIR, taken at their face value, disclose the commission of a cognizable offence. The same do not seem so remote or improbable to merit the exercise of the discretionary jurisdiction of this Court under Section 528 of BNSS (482 of CrPC). Therefore, the Court is not inclined to entertain the present petition.

11. It is clarified that nothing mentioned herein should be construed as an expression of the Court's opinion on the merits of the case. The Petitioners shall be at liberty to raise all the grounds urged in the present petition before the trial court at the appropriate stage.

12. Dismissed along with pending application(s).

SANJEEV NARULA, J

JULY 9, 2025/nk