



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

Reserved on: 21th August, 2025
Pronounced on: 28th October, 2025

+ **W.P.(CRL) 3143/2023**

SUBHASH PAHWA @ SUBHASH CHANDERPetitioner

Through: Mr. Aman Gaur and Mr. Kumar
Balram, Advocates.

versus

STATE OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Sanjeev Bhandari, ASC for State
with Mr. Arjit Sharma and Ms. Sakshi
Jha, Advocates.
Mr. Vinay Kumar, SI, PS-Vasant
Kunj North.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.

1. The present petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Criminal Procedure, 1973²) arises out of a prosecution pertaining to a robbery involving an 'Ertiga' vehicle. The Petitioner seeks two distinct, though interrelated, reliefs. The primary relief is for quashing of *CC No. 49189/2016* titled ***State v. Sandeep***

¹ "BNSS"

² "CrPC"



and for setting aside the conviction order dated 16th September, 2015, passed by the Metropolitan Magistrate, Patiala House Courts, New Delhi, in FIR No. 306/2012 at P.S. Vasant Kunj (North). In the alternative, invoking the protection against double jeopardy enshrined under Article 20(2) of the Constitution, the Petitioner prays that Respondents No. 2 to 4 be directed not to consider the said FIR and conviction order as a disqualifying factor while assessing his case for premature release. The petition thus raises a pertinent question for consideration: whether the extraordinary writ jurisdiction can be invoked to reopen a concluded criminal conviction, and if not, whether the subsisting conviction can be relied upon by the competent authorities while evaluating the Petitioner's claim for premature release.

FACTUAL BACKGROUND

2. The factual matrix, in brief, is as follows:

2.1. FIR No. 306/2012 was registered on 5th November, 2012 at P.S. Vasant Kunj (North), Delhi, for offences under Sections 365, 392, 397, 506 and 34 of the Indian Penal Code, 1860³. Subsequently, FIR No. 23/2013 was registered on 11th February, 2013 at P.S. Crime Branch, Delhi, for offences under Sections 171, 471, 412 and 34 IPC read with Section 25 of the Arms Act, 1959⁴. At the crux of both FIRs is the same vehicle, an 'Ertiga' bearing registration No. DL-3CCA-0230, allegedly robbed on 5th November, 2012 near Ambience Mall, Vasant Kunj, Delhi.

2.2. FIR No. 306/2012 was lodged by one Radhey Shyam, who alleged that on 5th November, 2012, at about 6:50 PM, three persons aged between

³ "IPC"

⁴ "Arms Act"



25–35 years robbed his ‘Ertiga’ vehicle at gunpoint. During investigation, two accused, namely Pradeep and Parveen @ Sonu, were arrested on 23rd November, 2012. They disclosed that their associate, Md. Arkan, had taken the robbed vehicle. However, the police could not apprehend him. Nonetheless, a charge-sheet was filed on 16th January, 2013 under Sections 365, 392, 397, 506 and 34 IPC.

2.3. During the investigation of FIR No. 23/2013, the present Petitioner, Subhash Pahwa @ Subhash Chander, along with co-accused Varun @ Nishu and Sandeep Ahlawat @ Kokal, was arrested. The robbed vehicle, which was the subject property of FIR No. 306/2012, was recovered from their possession, albeit with a forged number plate bearing No. DL-3CAD-7396 in place of the original DL-3CCA-0230. Consequently, the said three accused were also arrested in connection with FIR No. 306/2012 and charge sheeted through a supplementary chargesheet for offences under Sections 482, 411 and 34 IPC.

2.4. The supplementary investigation in FIR No. 306/2012 revealed that the robbed vehicle was initially in possession of Md. Arkan, who subsequently handed it over to Varun @ Nishu and his associates, Sandeep Ahlawat and the present Petitioner, Subhash Pahwa.

2.5. In the proceedings arising out of FIR No. 23/2013, the Petitioner stood trial before the Court of Additional Sessions Judge, Dwarka Courts, and, by judgment dated 26th November, 2014, was convicted for the offences under Sections 411 and 34 IPC in relation to the recovered vehicle. The trial court, *inter alia*, held that the police witnesses were credible; the vehicle was seized with a forged registration number DL-3CAD-7396 (the original being DL-3CCA-0230); and although the incident of robbery in FIR



No. 306/2012 was recorded under Section 392 IPC (and not under 395 IPC), the evidence warranted conviction under Sections 411/34 IPC rather than Sections 412/34 IPC, by virtue of Section 222 CrPC. The relevant findings of the judgment are as follows:

“26. All prosecution witnesses have supported the prosecution case. Ld Counsels for the accused have not been able to draw any major contradiction/ discrepancy in the statement of prosecution witnesses with regard to the manner of apprehension of accused at the spot of incident. There is no contradiction and discrepancy in the testimony of police witnesses. Their credibility could not be shaken during their cross examination. They have testified that the accused were apprehended in a stolen vehicle and on being inquired, accused Sandeep introduced himself as Ct. Satyabir and a gun was recovered from his possession. This fact is corroborated by the recovery of all incriminating articles from the possession of accused.

27. Accused in their statements have not stated anything against the witnesses including police officials. Therefore, it is highly improbable that police official would have falsely implicated them in a false case. All the prosecution witnesses have clearly identified the accused during the trial of the case. The FSL report confirms that the pistol recovered from the possession of accused Sandeep was a fire arm. I found the testimony of police witnesses reliable and trustworthy. I found no force in the contention of the defence counsel that all police witnesses are interested and no public witness has been joined in the investigation at any point of time, their testimony cannot be relied upon as this contention is without force because police witnesses are as much competent witnesses as public witnesses and their testimony can not be discarded only because they belong to police force. Otherwise, their testimony is to be scrutinized cautiously, and if found reliable and trustworthy, same can be relied upon to record the conviction.

28. It may be noted here that all police witnesses namely PW-3, PW-10, PW-II, PW-12 and PW-13 have duly corroborated the prosecution story regarding apprehension and arrest of the accused from the spot while they were travelling in Ertiga car by affixing fake registration number plate bearing no. DL-3CAD-7396 whose original number was 0230. The said Ertiga car was robbed from PW-9, who got lodged the FIR Ex PW 9/A in this regard but perusal of this FIR depicts that the same is lodged u/s 392 IPC and not u/s 395 IPC, therefore, to sustain the charge under Section 412/34 IPC the stolen property must be received from decoity, therefore, accused cannot be



convicted u/s 412/34 IPC but they can be convicted u/s 411 IPC as mandated by Section 222 Cr.P.C. The accused persons are hereby convicted under Section 411/34 IPC.”

2.6. On 10th September, 2015, in the proceedings emanating from case FIR No. 306/2012 (CC. No. 49189/2016), the Metropolitan Magistrate-02, Patiala House Courts, New Delhi, passed the following order:

“PW- Ct. Raghuveer is present, but discharged unexamined as the case property has not been produced before this court. He is bound down for the next date of hearing i.e. 16.9.2015.

Issue notice to the MHC(M) for date fixed with the directions to produce the case property.

Be listed for P.E. on 16.9.2015.

Accused persons have stated that they have moved an application u/S 300 Cr.P.C for seeking discharge on the ground that they have been previously convicted of the same offence in some other court.

Let the same be listed for consideration on 16.9.2015”

2.7. On 16th September, 2015, the Petitioner and co-accused Sandeep Ahlawat and Varun pleaded guilty to the offences under Sections 411, 482 and 34 IPC. The Metropolitan Magistrate accordingly convicted them and sentenced each to the period already undergone in judicial custody. The order dated 16th September, 2015, reads as follows:

*“Present: Ld. APP for the State.
Accused Sandeep Ahlawat @ Kokal, Varun @ Nishu and Subhash Pahwa produced from JC.
Accused Pradeep in person.
IO/SI Neeraj Kumar in person.*

Today the accused Sandeep Ahlawat, Varun and Subhash Pahwa have pleaded guilty to the charge punishable under Section 411/482/34 IPC.

Arguments on the point of sentence have been heard.

It is stated by accused Sandeep Ahlawat and Varun that they are in JC since 19.02.2013. It is further submitted by accused Subhash Pahwa that he is in JC since 22.02.2013. They have, therefore, prayed



that lenient view may be taken against them.

Keeping in view the facts and circumstances of the case and nature of allegations, no fruitful purpose would be by sentencing convicts/accused persons to further imprisonment.

Hence, accused namely Sandeep Ahlawat, Varun @ Nishu and Subhash Pahwa are sentenced to SI for the period already undergone in JC for the offences u/s 411/482/34 IPC

These Convicts/accused persons shall be given benefit of Section 428 Cr. P.C. Accused persons be released from custody if not wanted in any other case. Copy of this order be given to the convicts/accused persons free of cost today itself.

The proceedings shall continue against accused Pradeep, therefore. be listed on 18.11.2015 for P.E.”

2.8. The Petitioner is presently undergoing life imprisonment in another case, FIR No. 175/2001 registered at P.S. New Ashok Nagar, Delhi, for offences under Sections 364A, 307, 343, 120B and 353 IPC read with Section 27 of the Arms Act, and is lodged in Central Jail No. 8, Tihar. When the case of the Petitioner was considered for premature release by the Sentence Review Board⁵ on 14th December, 2022, the Board declined to recommend his release, noting that two criminal cases, including FIR No. 306/2012, were pending against him, indicating a non-reformative attitude.

2.9. Aggrieved by this decision, and contending that the conviction in FIR No. 306/2012 has prejudiced his consideration for premature release, the Petitioner has instituted the present writ petition.

CONTENTIONS OF THE PETITIONER

3. Counsel for the Petitioner makes the following submissions in support of the Petition:

3.1. The impugned order dated 16th September, 2015, in CC No. 49189/2016, arising from *FIR No. 306/2012*, is legally unsustainable, being



contrary to settled principles governing criminal trials and violative of constitutional and statutory protections.

3.2. The proceedings culminating in the said conviction violate the protection against double jeopardy guaranteed under Article 20(2) of the Constitution and the corresponding statutory bar under Section 300 CrPC. The earlier prosecution in FIR No. 23/2013 had already resulted in a conviction of the Petitioner on 26th November, 2014, under Sections 411 and 34 IPC, in respect of the same vehicle and incident. Once such conviction had attained finality, a subsequent prosecution punishing the Petitioner again on identical facts was impermissible in law.

3.3. The statutory conditions under Section 300 CrPC are fully satisfied: (i) there existed a prior prosecution before a competent court which resulted in conviction; (ii) the conviction subsisted when the later proceedings commenced; and (iii) the subsequent prosecution was based on the same facts and offences. Reliance is placed on ***T.P. Gopalakrishnan v. State of Kerala***⁶, wherein these three conditions were reiterated as prerequisites for invoking the bar against double jeopardy.

3.4. The trial court failed to adjudicate the Petitioner's application under Section 300 CrPC, which had been listed for consideration on 16th September, 2015 as per order dated 10th September, 2015. Proceeding to convict the Petitioner without deciding that preliminary objection amounted to a jurisdictional nullity, rendering the conviction vitiated.

3.5. The conviction followed a mechanical acceptance of a plea of guilt, without due inquiry into the voluntariness or the Petitioner's comprehension

⁵ "SRB"

⁶ (2022) 14 SCC 323.



of its consequences. The trial court did not ensure compliance with the safeguards attendant to recording a valid plea, particularly when the case property had not been produced and a key prosecution witness had been discharged unexamined just prior to the plea being entered.

3.6. Even on the merits of the charge, the ingredients of Section 411 IPC (dishonestly receiving or retaining stolen property, knowing or having reason to believe it to be stolen) were not established afresh in the later case; rather, the same evidentiary substratum from the earlier proceedings was repurposed to secure a second conviction, which is impermissible.

3.7. The later conviction in FIR No. 306/2012 has directly prejudiced his consideration for premature release before the SRB. Treating the same as an additional adverse antecedent amounts to double counting of the same incident. The decisions related to remission and premature release must bear a rational nexus to the convict's present conduct and reformation, which the SRB failed to assess, reflecting non-application of mind.

3.8. Without prejudice to the above, even if this Court is not inclined to quash the conviction order, it may direct the SRB to not treat FIR No. 306/2012 as an independent disqualifying antecedent distinct from FIR No. 23/2013, since both arise from the same transaction. A contrary view would perpetuate the mischief sought to be remedied by the provisions under Article 20(2) and Section 300 CrPC.

CONTENTIONS OF THE STATE

4. Mr. Sanjeev Bhandari, ASC for the State, opposes the present petition on the grounds briefly urged as under:

4.1. The present petition is misconceived as it seeks, in effect, to reopen



and nullify a concluded criminal conviction through the writ jurisdiction. The jurisdiction under Article 226 of the Constitution read with Section 528 BNSS is supervisory and not appellate in nature. In the absence of any demonstrated jurisdictional infirmity, violation of natural justice, or patent illegality, the invocation of writ powers is impermissible.

4.2. It is contended that the constitutional protection under Article 20(2) and the statutory bar under Section 300 CrPC apply only where the subsequent prosecution is for the *same offence* based on the *same facts*. The present case does not satisfy that threshold. FIR No. 306/2012 pertains to an incident of robbery, whereas FIR No. 23/2013 concerns subsequent possession of the stolen vehicle, found with a forged number plate and accompanied by an Arms Act recovery. The offences are distinct in nature, and the mere commonality of property (the 'Ertiga') does not render them identical for purposes of double jeopardy.

4.3. There is no bar on the registration of the second FIR. The first FIR was lodged by the victim of robbery, while the second arose from an independent interception and recovery by the Crime Branch at a later stage. The two cases involved different complainants, distinct causes of action, and separate investigative processes. The factual foundation and gravamen of each were therefore independent.

4.4. On 16th September, 2015 the Petitioner pleaded guilty to offences under Sections 411/482/34 IPC. A voluntary, informed plea is a solemn admission. Any pending Section 300 application did not survive that plea, and alleged evidentiary gaps became immaterial.

4.5. Until set aside, the conviction in FIR No. 306/2012 stands and could be considered by the SRB. Treating it as an adverse antecedent is part of a



holistic evaluation of reformation and public safety.

4.6. The petition suffers from delay and laches. Extraordinary equitable relief under Article 226 cannot be invoked belatedly to reopen settled criminal proceedings, particularly when no exceptional circumstances are demonstrated.

ANALYSIS

ISSUE I – Maintainability and scope under Article 226 read with Section 528 BNSS, 2023

5. The Petitioner assails the judgment of conviction dated 16th September, 2015 passed in CC No. 49189/2016, titled ***State v. Sandeep*** (arising out of FIR No. 306/2012, P.S. Vasant Kunj North, Delhi). In the alternative, he seeks a direction to the SRB not to treat that conviction as an adverse antecedent while considering his premature release. The petition thus presents two facets: first, a challenge to a concluded conviction; second, a public-law prayer seeking a lawful and rational remission evaluation.

5.1. The High Court's power to issue writs in criminal matters is circumscribed. Under Article 226, the Court examines the legality of the process, not the merits of evidence, and does not function as an appellate forum. Interference is warranted only where the lower court lacked jurisdiction, the proceedings were legally impermissible, there exists a patent legal error, or the process amounts to abuse of any court or otherwise in the interest of justice.

5.2. Ordinarily, the availability of appellate or revisional remedies calls for judicial restraint. This restraint, however, is not absolute. Where the very initiation or continuation of prosecution is legally prohibited, writ



jurisdiction may be exercised to prevent the perpetuation of illegality.

5.3. Post-conviction interference is permissible only in limited scenario such as (i) when a subsequent prosecution or punishment offends Article 20(2) or Section 300 CrPC, rendering the proceedings a jurisdictional nullity: a second trial or punishment for the same offence on the same facts cannot stand and (ii) when a conviction is passed despite a fundamental lapse affecting the Court's competence, such as failure to decide a statutory bar going to jurisdiction.

5.4. Independently, this Court may issue directions to ensure that the SRB applies the governing remission policy correctly adhering to relevant considerations, and providing a reasoned determination. The guiding standard remains the requirement that administrative action must not be arbitrary⁷.

6. The present challenge is therefore not a general appeal on facts but rests on a specific jurisdictional ground i.e., whether the conviction dated 16th September, 2015 under Sections 411/34 and 482/34 IPC punishes the Petitioner a second time for the same incident of recovery of the 'Ertiga' vehicle from Jaanki Chowk, Sector-9, Dwarka, on 11th February, 2013. That recovery had already led to his conviction on 26th November, 2014 under Section 411/34 IPC in the proceedings arising from FIR No. 23/2013.

6.1. FIR No. 23/2013 records the interception of the 'Ertiga' bearing the forged number plate DL-3CAD-7396 near Jaanki Chowk, Dwarka, with seizure of the vehicle, a 0.32 pistol with six live rounds, and a forged Delhi Police identity card. The Petitioner was apprehended at the spot along with

⁷ *Laxman Naskar v. Union of India* (2000) 2 SCC 595; *Ram Chander v. State of Chhattisgarh* (2022) 12 SCC 52; *Mohinder Singh v. State of Punjab* (2013) 3 SCC 294.



his co-accused.

6.2. The supplementary charge-sheet in FIR No. 306/2012 directly imported the same Dwarka recovery as the foundation for arraigning the Petitioner and others under Sections 411/34 and 482/34 IPC, noting that the vehicle was already in the *malkhana* of FIR No. 23/2013.

6.3. The plea of guilt recorded on 16th September 2015 in CC No. 49189/2016 was confined to those sections; it did not concern the robbery allegations.

7. In these circumstances, the challenge raises a jurisdictional bar under Section 300 CrPC read with Article 20(2) of the Constitution. Where the grievance is that the law itself prohibits the second punishment, writ jurisdiction is maintainable. The petition thus meets the threshold of maintainability, both for examining the bar against double jeopardy and, in any case, for considering directions to the SRB.

Conclusion on Issue I

8. The jurisdiction under Article 226 read with Section 528 BNSS is supervisory, not appellate. It does not permit re-appraisal of evidence or correction of ordinary trial errors. However, where a conviction is alleged to rest upon a prosecution barred by Section 300 CrPC and Article 20(2), the Court is competent to intervene. The challenge here concerns such a jurisdictional bar. The prayer regarding SRB directions stands on an independent public-law footing and is, likewise, maintainable. In essence, this jurisdiction corrects what the law forbids, it does not re-try what the law permits.

ISSUE II – Bar of Double Jeopardy and Impermissibility of Second FIR



9. Article 20(2) of the Constitution declares that “*no person shall be prosecuted and punished for the same offence more than once*”. Section 300(1) CrPC gives statutory expression to this principle, embodying the pleas of *autrefois convict* and *autrefois acquit*, and prohibiting a second trial for “the same offence” or on “the same facts” after a conviction or acquittal by a competent court. Section 300(2) extends this protection to bar a subsequent trial for any “other offence” that could have been charged in the earlier proceedings under Section 221 CrPC on the same facts.

9.1. The governing test is the identity of the ingredients and factual substratum, not mere thematic similarity. Where the offences are distinct in their essential ingredients, a second prosecution may lie even if narratives intersect⁸. Conversely, as held in ***Kolla Veera Raghav Rao v. Gorantla Venkateswara Rao & Anr.***⁹ and ***T.P. Gopalakrishnan v. State of Kerala***¹⁰, a second prosecution founded on the same criminal act, or on a cognate offence that could and should have been charged in the first trial on the same facts, is barred by Section 300 CrPC.

9.2. The same underlying principle governs the registration of successive FIRs concerning the same occurrence. In ***T.T. Antony v. State of Kerala***¹¹, the Supreme Court held that once information is recorded under Section 154 CrPC in respect of a cognizable offence, any further information relating to the same incident must be treated as part of the original FIR; a second FIR and fresh investigation would be impermissible except in a *counter-case*. The Court observed that such successive FIRs offend not only the scheme of

⁸ ***State of Bombay v. S.L. Apte*** AIR 1961 SC 578.

⁹ (2011) 2 SCC 703.

¹⁰ (2022) 14 SCC 323.

¹¹ (2001) 6 SCC 181.



Sections 154–173 CrPC but also Article 21 of the Constitution, as they expose a person to repeated investigation for the same occurrence. This principle has since been reiterated in *Babubhai v. State of Gujarat*¹² and *Anju Chaudhary v. State of U.P.*¹³, where the Supreme Court emphasized the “test of sameness” – that if both FIRs concern the same incident or transaction, a second FIR cannot be sustained. The “consequence test”, as laid down by the Supreme Court in *C. Muniappan & Ors. v. State of Tamil Nadu*¹⁴, and further clarified in *Amitbhai Anilchandra Shah v. Central Bureau of Investigation and Anr.*¹⁵, provides that if the offence alleged in the second FIR arises as a consequence of, or is integrally connected with, the first, the latter FIR is subsumed in the former and cannot independently survive.

9.3. The combined effect of these principles under Articles 20(2) and 21 and Sections 154–173, 221, and 300 CrPC is that the State cannot repeatedly prosecute or reinvestigate a person for the same act or incident merely by altering the statutory labels or registering a new FIR.

The Record Examined

10. FIR No. 23/2013 (P.S. Crime Branch): A raiding team intercepted an ‘Ertiga’ bearing the forged plate *DL-3CAD-7396* around 5:00 PM near Jaanki Chowk Road, Sector-9 Metro Station, Dwarka. The vehicle, a 0.32 pistol with six live rounds, and a forged Delhi Police identity card were seized. The Petitioner was apprehended along with Varun @ Nishu and Sandeep Ahlawat @ Kokal. The FIR cross-referenced FIR No. 306/2012

¹² (2010) 12 SCC 254.

¹³ (2013) 6 SCC 384.

¹⁴ (2010) 9 SCC 567.

¹⁵ (2013) 6 SCC 348.



(Ambience Mall robbery of 5th November 2012). The case culminated in the Petitioner's conviction on 26th November, 2014 under Section 411/34 IPC.

11. FIR No. 306/2012 (P.S. Vasant Kunj North): Initially registered for the Ambience Mall robbery, it did not name the Petitioner. A supplementary chargesheet was later filed against him under Sections 411/34 and 482/34 IPC, explicitly citing the Dwarka recovery of the same *Ertiga*. It recorded that vehicle *DL-3CCA-0230* (bearing the same forged plate *DL-3CAD-7396*) had been recovered on 11th February, 2013 from the Petitioner and co-accused; that it lay in the *malkhana* of FIR No. 23/2013; and that, based on these facts, the accused were produced and charged. On 16th September, 2015, the Petitioner pleaded guilty to Sections 411/482/34 IPC and was sentenced to the period already undergone.

Application of the Bar under Article 20(2), Section 300 CrPC, and the "Test of Sameness"

12. *Section 300(1): "Same offence" on the "same facts"* – Section 411 IPC punishes the dishonest receipt or retention of stolen property, knowing or having reason to believe it to be stolen. In both prosecutions, the State relied on the same act of possession and recovery proved through the Dwarka seizure. The Petitioner's 2014 conviction under Section 411/34 IPC in FIR No. 23/2013 therefore exhausted the right of the State to prosecute him again for the same offence. The subsequent conviction in FIR No. 306/2012 under Section 411/34 IPC is thus barred by Section 300(1) CrPC and Article 20(2). The *test of sameness* articulated in **Babubhai** and **Anju Chaudhary** applies: both proceedings emanate from the identical incident and recovery, rendering the second prosecution jurisdictionally void.

13. *Section 300(2): "Other offence" that could have been charged earlier*



– The offence under Section 482 IPC (using a false property mark) was equally based on the same Dwarka seizure i.e., the forged number plate *DL-3CAD-7396*. Under the *consequence test*, this offence arose directly as a consequence of the same factual transaction that grounded the earlier FIR. Legally, an offence under Section 482/34 IPC could have been charged together with Section 411/34 IPC in the first trial. Therefore, by virtue of Section 300(2) CrPC, read with ***Kolla Veera Raghav Rao***, the second prosecution for Section 482/34 IPC is also barred.

14. The robbery charges in FIR No. 306/2012 (Sections 365/392/397/506/34 IPC) involve distinct ingredients and a separate criminal occurrence (the Ambience Mall robbery). The Petitioner was neither charged with nor convicted of those offences. The discussion herein is confined solely to his duplicate conviction for unlawful possession and the false plate linked to the Dwarka incident.

15. A plea of guilt cannot confer jurisdiction. Once the bar under Section 300 CrPC or the rule against double jeopardy under Article 20(2) applies, the conviction is a nullity, irrespective of the voluntariness of the plea or the sufficiency of evidence.

Conclusion on Issue II

16. The Petitioner's conviction dated 16th September, 2015, under Sections 411/34 and 482/34 IPC in CC No. 49189/2016, rests on the same Dwarka recovery of 11th February, 2013 that had already formed the basis of his conviction dated 26th November, 2014 in FIR No. 23/2013. The identity of incident, evidence, and offence is complete for Section 411/34 IPC, while Section 482/34 IPC constitutes an "other offence" that could have been charged in the earlier proceeding. Applying the ***test of sameness*** and the



consequence test, the subsequent prosecution and conviction were without jurisdiction. The later conviction thus stands vitiated by Article 20(2) and Section 300 CrPC.

ISSUE III – Invalidity of the 2015 Conviction: Procedural Irregularity and Jurisdictional Bar

17. Where an accused raises an objection under Section 300 CrPC, the issue goes to the competence of the court and must be determined before recording any plea. A guilty plea cannot validate a proceeding that the law itself prohibits.

18. The order dated 10th September, 2015 records: (i) non-production of case property; (ii) discharge of PW Ct. Raghuveer unexamined; and (iii) an application under Section 300 CrPC filed by the accused and posted for consideration on 16th September, 2015. On that date, however, without adjudicating the pending objection, the Petitioner and co-accused were permitted to plead guilty to Sections 411, 482, and 34 IPC, and were sentenced to the period already undergone. The supplementary chargesheet filed in case FIR No. 306/2012 itself rested entirely on the same Dwarka seizure that had earlier resulted in the 2014 conviction.

19. Recording a plea of guilt without first determining a jurisdictional objection was a serious irregularity. More fundamentally, since the prosecution itself was barred by Section 300 CrPC and Article 20(2), the conviction was rendered void ab initio. The record produced does not contain the framed charge under Section 240 CrPC or the verbatim plea colloquy. A valid conviction on plea requires the framing of charge, its explanation to the accused, an unequivocal admission, and the Magistrate's



satisfaction of voluntariness. The absence of these materials, coupled with the jurisdictional bar, vitiates the conviction in its entirety.

ISSUE IV – Directions regarding Premature Release by the Sentence Review Board (SRB)

20. Premature release is an executive function governed by policy. Judicial review is limited to examining arbitrariness, non-application of mind, or departure from policy norms¹⁶. In ***Laxman Naskar v. Union of India***¹⁷, the Supreme Court identified the relevant considerations: the nature and impact of the offence, motive, likelihood of re-offending, conduct in custody, and social reintegration prospects. Any decision must show that these factors were assessed rationally and without reliance on irrelevant or duplicative materials.

21. Where multiple proceedings stem from the same factual episode, authorities must avoid treating that single occurrence as multiple adverse antecedents. The law penalises discrete offences, not overlapping narratives. Administrative assessments must adhere to this principle to ensure proportionality and fairness.

22. In the present case, the SRB, by its decision dated 14th December 2022, declined to recommend the Petitioner's release, citing two pending cases including FIR No. 306/2012 as indicative of a non-reformative attitude. However, as held under ***Issue II***, the conviction dated 16th September 2015 in CC No. 49189/2016 for Sections 411/34 and 482/34 IPC cannot stand, being barred by Article 20(2) of Constitution and Section 300

¹⁶ *State of Haryana v. Jagdish* (2010) 4 SCC 216; *Epuru Sudhakar v. Government of A.P.* (2006) 8 SCC 161.



CrPC. Even apart from that finding, both FIRs trace back to the same Dwarka recovery of 11th February, 2013 and must be treated as a single antecedent for risk assessment.

FINAL DIRECTIONS

23. While concluding the analysis, it would be appropriate to issue the following final directions:

23.1. The petition succeeds in part. The conviction dated 16th September, 2015 in CC No. 49189/2016 (arising out of FIR No. 306/2012, P.S. Vasant Kunj North) is set aside to the extent it records guilt under Sections 411/34 IPC and 482/34 IPC, the later prosecution and punishment being barred by Article 20(2) of the Constitution and Section 300 CrPC, as both rest on the identical Dwarka recovery of 11th February, 2013, which had already culminated in the Petitioner's conviction under Section 411/34 IPC in FIR No. 23/2013.

23.2. The Trial Court/NCRB/Police Record Room/Jail authorities shall carry out necessary corrections in nominal rolls and criminal antecedent records to reflect setting-aside of the conviction under Sections 411/34 and 482/34 IPC in CC No. 49189/2016, within four weeks of pronouncement of this judgment.

23.3. It is clarified that nothing in this judgment reopens the prosecution for the charges of robbery in FIR No. 306/2012 against any other accused, nor does it disturb the findings thereon.

23.4. The SRB shall reconsider the Petitioner's case for premature release within eight weeks of pronouncement of this judgment. In doing so, the SRB

¹⁷ (2000) 2 SCC 595.



shall (i) treat overlapping strands arising from the single Dwarka recovery dated 11th February, 2013 as one antecedent rather than multiple, and (ii) render a reasoned decision applying the governing policy and other directions issued by this Court in *Santosh Kumar Singh v. State (Govt. of the NCT) of Delhi*.¹⁸

23.5. A copy of this judgment be forwarded to the SRB and the Superintendent, Central Jail concerned, for information and compliance.

24. The Petition is allowed in the above terms and stands disposed of along with any pending applications.

SANJEEV NARULA, J

OCTOBER 28, 2025/nk

¹⁸ 2025:DHC:5138.