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

+ **CRL.M.C. 5594/2025 & CRL.M.A. 24018/2025**

SANJEEV KUMAR

.....Petitioner

Through: Petitioner in person.

versus

STATE OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Mukesh Kumar, APP for the
State.

SI Esther, PS: Hauz Khas.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.08.2025

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1. The present petition, filed under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023¹ read with Article 227 of the Constitution of India, 1950 seeks the following relief:

“In view of the aforesaid facts and circumstances, it is most humbly prayed that this Hon’ble Court may be pleased to set aside order dated 29.04.2025 passed by the Ld. Judicial Magistrate First Class, South District, Saket Court, Delhi and order dated 09.07.2025 passed by Ld. Additional Session Judge, South District, Saket Court, Delhi in CRL. REV NO. 211/2025, whereby the Ld. JMFC without giving proper opportunity to the petitioner to submit his case against the principal of natural justice: (1). dismissed the evidence by way of affidavit; (2). dismissed the application under section 319 CR.P.C r/w 216 CR.P.C for summoning to additional accused persons no. 2-34; and (3). dismissed the application under section 202 CR.P.C r/w 173 CR.P.C for seeking further inquiry from CBI which was also confirmed by Ld. Additional Session Judge in its Order; and (4) seeking to be correct errors or prevent injustice, calling for returns, prescribing rules of procedure and judicial supervision under

¹ “BNSS”



Article 227 of the Indian Constitution; and (5) seeking to withdraw the case from Trial Court to decide a substantial question of law as to the interpretation of the Constitution under Article 228 of the Indian Constitution; and (6) permission to be grant to the appellant to amend his complaint before Trial Court in the interest of justice; and (7) To correct all the petitions should be withdraw from Supreme Court Legal Service Committee immediately those had been dismissed by Division Bench; and (8).pass any other or further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The present proceedings arise out of a complaint dated 18th February, 2019 filed by the Petitioner before the Trial Court. The Petitioner, an advocate by profession, alleged that he married Respondent No. 2 (Alka Singh) on 19th April, 2017, only to later discover that she was already married to Respondent No. 10 (Raj Kumar Dwivedi). This fact was allegedly concealed from him by Respondent No. 2 and her family members (Respondents No. 3 to 9). The Petitioner contends that the Respondents conspired to deceive him into marriage with the ulterior objective of extorting money. After the marriage, Respondent No. 2 allegedly continued her association with her first husband (Respondent No. 10), while her family members subjected the Petitioner and his aged parents to persistent threats and harassment. It is further alleged that upon learning of Respondent No. 2's pregnancy, the Respondents attempted to pressurize the Petitioner to terminate the same. The Petitioner also claims that, on one occasion, the Respondents forcibly entered his residence and removed his cash and valuables. Thereafter, Respondent No. 2 and her family members instituted false criminal proceedings against him, including cases under Section 498A



of the Indian Penal Code, 1860² and Section 125 of the Code of Criminal Procedure, 1973³, in order to harass him and coerce financial gains.

3. Pursuant to the complaint and pre-summoning evidence, the Trial Court, by order dated 10th August, 2020, summoned Respondent No. 2 for offences under Sections 495 and 496 of IPC. The Petitioner submits that despite more than 25 hearings since then, no substantive evidence has been recorded. He then moved three applications: (i) seeking permission to adduce evidence by way of affidavit, (ii) under Sections 319 read with 216 of Cr.P.C for summoning additional accused allegedly involved in a conspiracy to extort money, and (iii) under Sections 202 read with 173 of Cr.P.C for directing further inquiry by the CBI on the ground of collusion between Respondent No. 2 and the local police. The Trial Court dismissed all three applications by order dated 29th April, 2025, and the decision was upheld in appeal by the Sessions Court on 9th July, 2025. Aggrieved thereby, the Petitioner has preferred the present revision.

4. The Petitioner submits that although the complaint was instituted in 2019, the Trial Court has failed to record any meaningful evidence, thereby causing serious prejudice to his right to an expeditious adjudication. In these circumstances, he ought to have been permitted to lead his evidence by way of affidavit, particularly since the right to a speedy trial is constitutionally guaranteed under Articles 14 and 21 of the Constitution of India. He argues that there exists no absolute prohibition against affidavit-based evidence in criminal proceedings, and the refusal of the Trial Court to accept the same is therefore unjustified.

² “IPC”

³ “Cr.P.C”



5. The Petitioner further urges that the Trial Court wrongly declined to summon additional accused despite the emergence of fresh allegations, including caste-based threats and remarks attracting Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989,⁴ and the alleged sexual assault of his wife. It is submitted that the applications under Sections 319 and 216 of Cr.P.C were dismissed on vague and perfunctory grounds, without a proper appraisal of the material that, according to the Petitioner, warranted the summoning of further accused.

6. It is also contended that the interests of justice require further investigation by the CBI or, at the very least, an inquiry under Sections 202 and 173 of Cr.P.C, particularly since several of the alleged conspirators reside beyond the jurisdiction of the Trial Court. The rejection of such requests, despite allegations of conspiracy, evidence tampering, and serious offences including rape and extortion, is assailed as an error that undermines the fairness and completeness of the trial process.

7. The Court has considered the submissions but finds them misconceived. Before addressing the grounds urged in revision, it is apposite to reproduce the relevant observations made in the impugned appellate order dated 9th July, 2025:

“The first ground on which the present revision petition is predicated is that Ld. Trial Court has refused to submit the evidence by way of affidavit. Apropos this, the relevant observations of Ld. Trial Court in the impugned order can be taken note of as under:

“....Complainant has moved an application to take his evidence by way of affidavit to which Ld. Proxy counsel for accused has objected on the ground that it is not appropriate state to move such application. In the present case, the complainant has already partly examined in chief and his further examination in chief was deferred. At this stage, it is apprised to

⁴ “SC/ST Act”



the complainant that he may proceed with the evidence to which he submitted that his evidence must be taken on record by way of affidavit. Considering the facts and circumstances of the case and the stage at which the matter is pending, the present application stands dismissed and complainant is directed to proceed with his evidence.”

8. The afore-noted observations clearly indicate that in the proceedings before Ld. Trial Court, the revisionist has already been examined in chief partly and his further examination is ongoing, at which stage, he moved an application for taking his evidence on record by way of affidavit. This being the current position regarding adducing of evidence, it is essential to note the definition of “evidence”, which has been defined under Indian Evidence Act, 1872 / Bharatiya Sakshya Adhiniyam, 2023 as under:

“(e) “evidence” means and includes- (i) all statements including statements given electronically which the Court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry and such statements are called oral evidence; (ii) all documents including electronic or digital records produced for the inspection of the Court and such documents are called documentary evidence”

9. It is noted from the above definition that the statement of witness is required to be made before the court in relation to matters of fact. Unless any legislation specifically provides for or permit recording of evidence by way of affidavit, the witness required to tender oral evidence by examining himself/herself before the court. In warrant triable cases, evidence of complainant and other witnesses is recorded before the court as a rule and matter of practice. It is only in proceeding under Negotiable Instruments Act (NI Act) or other acts of like nature, which are quasi criminal, parties are permitted to lead evidence by way of affidavit.

10. Revisionist has referred to Order 19 CPC to bolster his submissions, however, since the present proceedings are criminal in nature, the relevant provision of CPC is not applicable herein. This being the position, there is no infirmity in the impugned order whereby the revisionist was denied permission to lead further evidence by way of affidavit.

11. Second ground pertains to dismissal of the application under section 319 Cr.P.C read with section 216 Cr.P.C for summoning additional accused persons. The power under section 319 Cr.P.C can be invoked only after recording of evidence of the complainant wherein the complicity of other accused persons is prima facie made out. As noted above, in the instant case, the examination in chief of the revisionist is stated to be underway and now, considering the same there is no material on record which warrant the summoning of the additional accused persons.

12. In so far as section 216 Cr.P.C is concerned, the same pertains to addition or alteration of charge. In the instant case, the proceedings before Ld. Trial Court are at the stage of recording of pre-charge evidence and adjudication on the point of charge is yet to be done, the



contention of the revisionist to invoke section 216 Cr.P.C is misconceived. Thus, to this effect as well, there is no infirmity in the impugned order.

13. The last ground raised in the present revision petition is that Ld. Trial Court has failed to invoke section 202 Cr.P.C seeking further inquiry or investigation against accused persons. Order dated 10.08.2020 of then Ld. MM-02, South reflects that the allegations qua other alleged persons were not specific, appeared to be vague and general in nature and thus their summoning was not warranted. Thus, there did not arise any occasion to embark upon any inquiry or investigation as envisaged under section 202 Cr.P.C. The present revision petition is not against the order dated 10.08.2020 whereby the accused was summoned, but is only limited to the order dated 29.04.2025. Thus, this ground also does not hold any water. Revisionist has also sought further investigation through the agency of CBI, but since the proceedings before Ld. Trial Court are in the nature of warrant triable complaint case, the state agency cannot be brought in to conduct investigation.

14. Revisionist has relied upon some judgments as already noted above, however, those judgments have no applicability to the facts of the present revision petition. The judgment in Satbir Singh (supra), Yashodhan Singh (supra), Sukhpal Singh Khaira (supra) pertain to the principle of Section 319 Cr.P.C but all these judgments are distinguishable on facts as in the instant case, the testimony of the revisionist before Ld. Trial Court is still underway and no substantive material has been revealed as of now to summon the other accused persons. The judgment in Om Prakash (supra) is on the aspect that the trial courts are not barred from deciding the issue having no precedent, which is not the case herein as no question of fact or law is involved herein which requires the help of any precedent. The judgment in ASI Naresh Kumar (supra) is of no relevance to this case as issues involved therein were altogether distinct.

15. In the result, the present revision petition stands dismissed, being bereft of merit. File be consigned to record room. Trial Court record be sent back. Copy of this order be given dasti to revisionist against acknowledgment.”

8. The petitioner had already stepped into the witness box, his examination-in-chief was partly recorded, and further examination was pending when the request to substitute oral testimony with an affidavit was made. Such a course is contrary to the settled procedure of criminal trials, where evidence is ordinarily to be adduced orally before the court unless a statute specifically provides otherwise. Both the Trial Court and the Sessions



Court rightly held that there is no provision permitting affidavit evidence at this stage, and the request was therefore premature and untenable.

9. In warrant trial cases, the evidence of the complainant and witnesses must, as a matter of law and practice, be recorded before the Court. Affidavit evidence is an exception permitted only in proceedings of a quasi-criminal character, such as prosecutions under the Negotiable Instruments Act, 1881. The reliance placed by the revisionist on Order XIX CPC is misplaced, for civil procedure has no application in criminal trials. In this backdrop, no infirmity can be found in the refusal of the Trial Court to accept affidavit evidence.

10. The second ground concerns the dismissal of the application under Sections 319 and 216 of Cr.P.C for summoning additional accused. The power under Section 319 of Cr.P.C can be exercised only after evidence is recorded disclosing *prima facie* complicity of others. Since the examination-in-chief of the Petitioner is still in progress and no such material has emerged, there was no occasion for invoking the provision has not arisen.

11. Equally misconceived is the reliance on Section 216 of Cr.P.C, which permits addition or alteration of charges. As the proceedings are still at the stage of pre-charge evidence, and no order on charge has yet been made, invocation of Section 216 of Cr.P.C is premature.

12. As for the allegations under the SC/ST Act and those relating to the alleged rape of the Petitioner's wife, the same already stand dismissed by this Court *vide* orders dated 6th November 2024 in CRL.A. 160/2023 and 23rd January 2024 in CRL.MC 545/2024, which reinforces the conclusion that the so-called "new facts" sought to be relied upon by the Petitioner are devoid of merit.



13. The ground relating to the refusal of the Trial Court to order an inquiry under Section 202 Cr.P.C or a further investigation under Section 173 of Cr.P.C, is equally devoid of substance. The summoning order dated 10th August, 2020 had already examined the allegations against other named persons and found them to be vague and general. Further, the request for further investigation through the CBI is misconceived, since the matter arises from *complaint* case which is triable as a ‘warrant case’ and therefore, the investigative framework of Section 173 of Cr.P.C does not apply. Recourse to a central agency in such proceedings is neither envisaged nor permissible.

14. Beyond the infirmities already discussed, the Court cannot be unmindful of the Petitioner’s consistent pattern of abuse of legal process. As recorded in the judgment dated 6th November, 2024 in CONT.CAS.(CRL) 5/2024, the Petitioner was convicted of criminal contempt for persistently filing frivolous and baseless complaints laced with scandalous allegations against his wife, her family, judicial officers, Judges of this Court, police officials, and other public functionaries. That judgment also took note of his proclivity to occupy valuable judicial time with vexatious proceedings, his repeated use of offensive language, and even his misuse of the Court’s video-conferencing platform to air contemptuous remarks calculated to scandalise the institution. Over thirty complaints were shown to have been instituted by him against judicial officers alone, with no trace of contrition despite repeated opportunities. Against this backdrop, the present petition cannot be seen as an isolated invocation of jurisdiction but rather as part of a continuing course of conduct that militates against the grant of any indulgence.



15. Repeated resort to frivolous proceedings, coupled with scandalous attacks on members of the judiciary, not only consumes scarce judicial resources at the expense of genuine litigants but also corrodes public faith in the integrity of the justice system. In these circumstances, the Court must be cautious in entertaining any further claims of the Petitioner, so that the judicial process is not misused and public confidence in the justice system is not undermined.

16. In light of the foregoing discussion, the petition, along with pending application(s) stand dismissed.

SANJEEV NARULA, J

AUGUST 14, 2025/MK