



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

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*Reserved on: 14th October, 2025
Pronounced on: 08th December, 2025*

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**CRL.M.C.7185/2025, CRL.M.A. 30175/2025 (stay)
30176/2025 (Exemption)**

1. **VICKY**

S/o Jaibhan

R/o H.No. RZ-72, Village

Mangolpur Khurd, Delhi-110083

...Petitioner No.1

2. **JAIBHAN**

S/o Ramkishan

R/o H.No. RZ-72, Village

Mangolpuri Khurd, Delhi-110083

...Petitioner No.2

Through: Mr. Gautam Khazanchi, Ms. Pooja, Mr. Deepak and Mr. Khush, Advocates.

versus

STAE (NCT OF DELHI)

Through SHO; PS: Mundka

...Respondent

Through: Mr. Shoaib Haider, APP for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) read with Section 482 of the



Code of Criminal Procedure, 1973 (*hereinafter referred to as 'CrPC'*) has been filed on behalf of the Petitioners, to set-aside the Order dated 23.12.2024 of Ld. ASJ-05, Delhi in *Crl. Rev. No. 298/2019* whereby the Ld. ASJ has upheld the Order of Ld. MM dated 26.07.2019 *discharging the Respondent for the offence under Section 186 Indian Penal Code, 1860 (hereinafter referred to as 'IPC')* while the discharge under other Sections 353/333/341/506/34 of IPC, has been set-aside.

2. ***The Case of the Prosecution*** is that FIR No. 653/2015 dated 20.12.2015 under ***Section 186/353/332/341/506/34*** IPC was registered at Police Station Mundka, on the *Complaint of Mr. Naresh Kumar*, the driver of DTC Bus bearing No. DL1PC7187. He stated that on 20.12.2015, he was driving his DTC Bus from Bahadurgarh to Karampura. At about 06:00 pm, he was on Rohtak Road Near Ghevra Mor, a small Tempo bearing registration No. DL-1L R3159, which was plying alongside the bus, was not being driven in an appropriate manner. The Complainant blew horns many a times to give him side, but the Tempo Driver failed to give him way. At about 06:25 PM, when they reached near Gali No. 6, Mundka Factory Area, the driver of the Tempo stopped his Tempo in front of his Bus. The driver and conduct of the Tempo got down and caught hold of the hand and collar of the Complainant and pulled him down from the Bus. Thereafter, they started giving him fists and legs blow. On his raising the alarm, the passenger of the Bus intervened and rescued him from the two assailants. Someone called the PCR.

3. On his Statement, FIR No. 653/2015 dated 20.12.2015 under Section 186/353/332/341/506/34 IPC got registered at Police Station Mundka. On



completion of the investigations, the Charge-Sheet was filed before the Ld. MM.

4. At the stage of framing of Charge, the Ld. MM noted in the Order dated 26.07.2019 that no formal Complaint for the offence under S.186 IPC as mandated under Section 195 CrPC, had been filed in the Court. Reference was made to the Judgment of Gurinder Singh vs. State, 63 (1996) DLT 104 and Vasudev vs. State, 1984 (7) DRJ 248 wherein it was held that when the Complaint under Section 195 CrPC, has not been made to the Court in respect of offence under Section 186 IPC, then the Charge-Sheet in toto along with other offences, is liable to be discharged. **The Petitioners, Vicky and Jaibhan, the two Accused in the Charge-Sheet, were accordingly, discharged, by the Ld. MM.**

5. However, the **State preferred Revision Petition No. 298/2019** against the Order on discharge. The Ld. ASJ in the *impugned Order dated 23.12.2024*, considered the rival contentions and noted that non-compliance of the requirements of 195 CrPC is fatal to the prosecution for the offence punishable under Section 186 IPC, but it does not bar the trial of the Accused for the distinct offences though arising out of the same cause of action. The Impugned Order of the Ld. MM was thus, modified and the *discharge of the Petitioners* for the offences under *Section 353/333/341/506/34 IPC was set-aside* and they were directed to face the trial.

6. The *petitioners/accused* have challenged the Impugned Order dated 23.12.2024 of Ld. ASJ on the **grounds** that the Ld. Revisional Court erred in holding that the offences under Section 353/333/341/506/34 IPC, could be



tried independently of the offence under Section 186 IPC. The wrongful restraint and other offences, were committed during the course of alleged obstruction. The entire sequence of events forms one single, integrated transaction, where the alleged obstruction is the foundational act from which all other allegations flow.

7. Reliance is placed on U.P. vs. Suresh Chandra Srivastava, (1984) 3 SCC 92 and C. Muniappan vs. State of T.N., (2010) 9 SCC 567 where the Apex Court had explained that even if there were other offences which form an integral part of the offence under S.186 IPC, the bar of Section 195 CrPC such distinct offences would also come within the ambit of Section 195 CrPC.

8. Reliance is also placed on Devendra Kumar vs. State (NCT of Delhi), 2025 SCC OnLine SC 1753 and Saloni Arora vs. State (NCT of Delhi), (2017) 3 SCC 286.

9. The alleged assault under Section 353 IPC and causing hurt under Section 332 IPC, cannot be considered as independent acts. A cursory look at FIR, Charge-Sheet and Statements of the witness under Section 161 CrPC, makes it abundantly clear that these acts were allegedly committed in the course of and for the purpose of obstructing the public servant, which is an offence under Section 186 IPC.

10. The provisions of this Section cannot be evaded by describing the offence as one punishable under some other Sections of IPC, though in truth and substance, the offence falls in the category mentioned in Section 195 CrPC. The Ld. Revisional Court misapplied the law by prioritizing Section 155(4) over the absolute bar contained in Section 195 CrPC. It has been



erroneously held that the offences under Section 332/353/341/506/34 IPC are cognizable and can be tried separately and independently of the offence under Section 186 IPC.

11. In the end, it is submitted that Section 195 is not merely about the classification of an offence as cognizable or non-cognizable, it is a jurisdictional bar on the Court's power to take cognizance. It cannot be nullified simply because other cognizable offences were allegedly committed in the same transaction.

12. **Section 2(d) CrPC** defines the Complaint as any allegation made orally or in writing to a Magistrate, with a view for the Magistrate to take action under the Code, against some person, whether known or unknown, has committed the offence, but it does not include a Police Report. Merely annexing a Complaint to the Charge-Sheet/final report, does not satisfy the precondition attached for prosecution of offence under Section 186 IPC. The non-compliance of Section 195 CrPC is fatal to the Prosecution and for the offence punishable under Section 186 IPC.

13. The Ld. ASJ has failed to consider that PCR call was initiated by a public person and the Complainant in his Statement stated that members of public had come to his aid. Despite this, no independent public persons have been made a witness in this case. The only other individuals aside from the Complainant, who has been cited as a witness, is Mr. Rajesh Kumar, the conductor of the DTC Bus and Mr. Surender Singh, who was deployed on security duty on the said bus.



14. It is, therefore, submitted that the Order dated 23.12.2024 of Ld. ASJ directing trial of the Petitioners for the offences under Section 353/333/341/506/34 IPC, may be set-aside.

15. On advance Notice, Ld. Prosecutor on behalf of the State has appeared and accepted the Notice.

Submissions heard on behalf of the learned counsel for the Petitioners.

16. The case of the Prosecution is that on 20.12.2015, the complainant was plying the DTC Bus when he was forced to stop by the Tempo Driver and pulled out of the Bus and given beatings.

17. The moot question is whether the bar of S.195 Cr.P.C., would be limited to the offence of S.186 IPC or would be applicable to all other offences committed in the same transaction.

18. In the case of Arun Vyas (supra); Gurinder Singh (supra) and Vasudev (supra), it has been held that if the entire transaction is one, it cannot be bifurcated and the bar of Section 195 IPC, be limited to the offence under Section 186 IPC but in fact, the entire Complaint is liable to be quashed.

19. However, in the case of Basir-ul-huq v. State of West Bengal, (1953) 1 SCC 637, a three-judge bench of the Apex Court held that while Section 195(1)(a) restricts cognizance for certain offences, it does not affect the Magistrate's power to proceed with distinct offences. Thus, the two sets of offences can be separated for the purpose of cognizance.

20. In Durgacharan Naik v. State of Orissa, AIR 1966 SC 1775, it was held that Section 195 Cr.P.C. does not bar the trial for other distinct offences though practically based on the same facts as far as the prosecution under Section 186 IPC is concerned.



21. The Apex Court in the recent case of Devendra Kumar (Supra) wherein after discussing the judgments and referring to Section 195 IPC, concluded as under:-

“(i) Section 195(1)(a)(i) of the Cr.PC bars the court from taking cognizance of any offence punishable under sections 172 to 188 respectively of the I.P.C., unless there is a written complaint by the public servant concerned or his administrative superior, for voluntarily obstructing the public servant from discharge of his public functions. Without a complaint from the said persons, the court would lack competence to take cognizance in certain types of offences enumerated therein.

(ii) If in truth and substance, an offence falls in the category of Section 195(1)(a)(i), it is not open to the court to undertake the exercise of splitting them up and proceeding further against the accused for the offence distinct offences disclosed in the same set of facts. However, it also cannot be laid down as a straitjacket formula that the Court, under all circumstances, cannot undertake the exercise of splitting up. It would depend upon the facts of each case, the nature of allegations and the materials on record.

(iii) Severance of distinct offences is not permissible when it would effectively circumvent the protection afforded by Section 195(1) (a)(i) of the Cr.P.C., which requires a complaint by a public servant for certain offences against public justice. This means that if the core of the offence fails under the purview of Section 195(1)(a)(i), it cannot be prosecuted by simply filing a general complaint for a different, but related, offence. The focus should be on whether the facts, in substance, constitute an offence requiring a public servant’s complaint.



(iv) *In the aforesaid context, the courts **must apply twin tests**. First, the courts must ascertain having regard to the nature of the allegations made in the complaint/FIR and other materials on record whether the other distinct offences not covered by Section 195(1)(a)(i) have been invoked only with a view to evade the mandatory bar of Section 195 of the I.P.C. and secondly, whether the facts primarily and essentially disclose an offence for which a complaint of the court or a public servant is required.*

(v) *Where an accused is alleged to have committed some offences which are separate and distinct from those contained in Section 195, Section 195 will affect only the offences mentioned therein. **However, the courts should ascertain whether such offences form an integral part and are so intrinsically connected so as to amount to offences committed as a part of the same transaction, in which case the other offences also would fall within the ambit of Section 195 of the Cr.P.C. This would all depend on the facts of each case.***

22. It is evident that the test to be applied is to ascertain if the entire sequence of events forms an inseparable integrated transaction or whether the offences though committed in the same event, are distinct and separate offences not connected to Section 186 IPC. In the light of the aforesaid principles, the facts of the present case may be considered.

23. It emerges from the statement of the Complainant that while he was driving his DTC Bus, he was stopped by the Tempo Driver Vicky in which Jaibhan, Petitioner No.2 was the helper. They thereafter, pulled down the Complainant and gave him severe beatings and also threatened him; he was rescued by the passengers traveling in the DTS Bus.



24. It is evident from the Complaint that while Section 186 IPC had been invoked because the Complainant happened to be the bus driver but from the sequence of events, it is evident that he was not beaten because he was a Government official or the offence was committed while he was discharging his official duty. Essentially, the offence was committed against him because he was a driver of the bus and not because he was a public servant discharging his official duties. He incidentally may happen to be the employee of the DTC, but he was not targeted on account of he being the DTC driver, but as an individual driver of the bus.

25. It is quite evident from the narration of the incident, that the offences under Section 353/333/341/506/34 IPC, have not been committed on a public servant while discharging his duties but these were the offences, which were committed and Section 186 IPC got invoked incidentally because the Complainant also happened to be the driver of DTC Bus. It is evident that the other offences were not connected to Section 186 IPC, but were distinct offences.

26. There is no infirmity in the impugned Order of Ld. ASJ. There is no merit in the present Petition, which is hereby dismissed.

27. Pending Applications, if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 08, 2025/RS