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

+ CRL.M.C. 8366/2025, CRL.M.A. 34877-34879/2025

AMAR MISHRA

.....Petitioner

Through: Mr. R. Jude Rohit, Advocate.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Satinder Singh Bawa, APP for
State with SI Pardeep, PS Mehrauli,
Delhi.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.11.2025

1. This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 482 of Code of Criminal Procedure, 1973²) is directed against order dated 24th April, 2025 passed by the Principal District & Sessions Judge, South District, Saket Courts, New Delhi. By the impugned order, the Sessions Court allowed the revision preferred by the Accused/Respondent No. 2, Onkar Marathe, and set aside the summoning order dated 06th April, 2024 passed by the JMFC-II, South District, whereby the Respondent had been summoned to face trial.

2. The facts of the case, in brief, are as follows:

2.1. The Petitioner, Amar Mishra, lodged a written complaint dated 15th September, 2015, with the SHO, P.S. Mehrauli, as well as before the District

¹ "BNSS"



Magistrate (South) and the Commissioner of Police, regarding an incident alleged to have occurred on the same day at about 03:00 PM. He stated that he, along with his friends, was present in the room of the Reader in the office of the SDM, Mehrauli, to inquire about a case in which his friend, Mahesh Chaudhary, was acting as attorney for one Ankit Jain.

2.2. According to the complaint, while the Petitioner and his friends were in the Reader's room, the SDM entered, started threatening and abusing the Petitioner, caught him by the collar, slapped him and levelled false allegations against him, and thereafter returned to his chamber.

2.3. On the basis of this complaint, DD No. 63A was recorded at P.S. Mehrauli. The Petitioner alleges that the SDM thereby misused his official position and authority by assaulting him in the presence of the Reader and his friends, Mahesh Chaudhary and Chander Nanda.

2.4. It is further alleged that upon learning that the Petitioner had already approached the police, the Respondent/Revisionist lodged his own complaint *vide* DD No. 71A, on the basis of which, FIR No. 2462/2015 dated 15th September, 2015 came to be registered against the Petitioner, whereas no action was initiated on the Petitioner's complaint.

2.5. The Petitioner thereafter moved an application under Section 156(3) Cr.P.C. seeking registration of an FIR. By order dated 06th May, 2016, the Trial Court declined the request and instead listed the matter for pre-summoning evidence. In support thereof, the Petitioner examined himself as CW-1 and his friends, Chander Nanda and Mahesh Chaudhary, as CW-2 and CW-3, respectively. On the basis of this material, by order dated 06th April, 2024, the Respondent was summoned for offences under Sections 342, 352

² "Cr.P.C."



and 506 IPC.

2.6. Aggrieved by the summoning order, the Respondent preferred a criminal revision, which was allowed by the Sessions Court by the impugned order.

3. Counsel for the Petitioner contends that the Sessions Court has proceeded on an erroneous premise and has failed to properly appreciate the pre-summoning evidence led before the Trial Court. The Petitioner (CW-1) and his witnesses, CW-2 and CW-3, have given a clear, consistent, and mutually corroborative account of the incident dated 15th September, 2015, describing the Respondent's entry into the Reader's room, the assault, and the threats allegedly extended. On this material, it is urged, the ingredients of offences under Sections 342, 352 and 506 IPC stand *prima facie* satisfied. At the stage of issuance of process, the Court is required only to ascertain whether a *prima facie* case is disclosed; it is not expected to undertake a meticulous evaluation of evidence or conduct a mini-trial.

4. It is further argued that the Respondent cannot claim protection under Section 197 Cr.P.C. (now Section 218 of BNSS). The acts complained of, namely, wrongful restraint, physical assault, and criminal intimidation, are wholly unconnected with any legitimate discharge of official duty and, on the Petitioner's showing, constitute a misuse rather than an exercise of authority. Such conduct, it is urged, is *ex facie* beyond the scope of lawful official functions and therefore does not attract the bar of previous sanction.

5. Reliance is placed on the decision of the Supreme Court in ***Choudhury Parveen Sultana v. State of West Bengal***,³ which was also noticed by the Trial Court. In that decision, the Court held that public



servants cannot shelter behind Section 197 Cr.P.C. when accused of acts such as assault, intimidation, or unlawful detention, as such acts cannot be regarded as reasonably connected with the discharge of official duty. Applying this principle, it is contended that the alleged assault on the Petitioner inside the office premises, coupled with threats, was neither part of any lawful proceeding nor necessary for performance of the Respondent's public functions, and instead represents an abuse of public office for personal reasons. On this footing, it is argued that the Revisional Court erred in treating the absence of sanction as a ground to interfere with the summoning order.

Analysis

6. The Court has considered the aforementioned contentions. It is not in dispute that, arising out of the same incident, FIR No. 2462/2015 under Sections 186, 353 and 506 IPC was registered at P.S. Mehrauli on the complaint of the Respondent/SDM, which has culminated in filing of a charge-sheet against the present Petitioner. In that FIR, the Respondent has stated that the Petitioner, an active "agent" in Mehrauli Tehsil allegedly involved in malpractices, entered the SDM office along with others, refused to leave when asked, became aggressive, attempted to attack the SDM, hurled abuses, and threatened to kill him and cause grievous hurt to his family. On this footing, the Respondent had sought registration of an FIR and police protection.

7. The Petitioner, on the other hand, alleges that he and his friends were present in the Reader's room to enquire about a pending matter and that, without provocation, the SDM abused him, caught hold of his collar and

³ (2009) 10 SCC 610



slapped him. On the basis of his complaint and the testimony of CW1 to CW3, the Trial Court formed an opinion that a *prima facie* case under Sections 342, 352 and 506 IPC was made out and summoned the Respondent. The Revisional Court interfered with that order, principally on the ground that (i) the presence of the Petitioner and his companions in the SDM office was not satisfactorily explained or supported by any contemporaneous record; (ii) the testimonies of CW2 and CW3, who are admittedly close friends of the Petitioner, were verbatim and not supported by any independent witness such as the Reader or the police official admittedly present; and (iii) on the Respondent's own version in the cross-case, his alleged conduct was reasonably connected with his official duty of maintaining order and regulating access within his office. On this basis, the Revisional Court held that the Respondent, being a public servant, was entitled to the protection under Section 197 Cr.P.C., and that no cognizance could have been taken in the absence of sanction.

8. The crucial issue therefore is whether the alleged acts of the Respondent, requiring the Petitioner to leave, calling the constable, and the alleged use of force in that context, can be said to have such a reasonable nexus with the discharge of his official duties that the bar under Section 197 Cr.P.C. stands attracted.

9. It is well settled that the test is not whether the act was, in fact, strictly necessary, lawful, or properly performed, but whether there is a reasonable connection between the act complained of and the functions of the office. If the act is so connected with the official duty that it could be claimed to have been done "in the course of" or "in the purported discharge of" such duty, sanction is required, even if the act is alleged to be in excess of authority or



performed in an improper manner. Conversely, where the act has no nexus with official functions and is plainly in the realm of a purely personal dispute or vendetta, the protection is not available.

10. Viewed in that framework, the observations of the Revisional Court assume significance. The incident is alleged to have occurred within the SDM office, specifically in the room of the Reader, during office hours. The Respondent, as SDM, was the head of the office and responsible for its functioning, safety, and discipline. The Petitioner admits that he was present along with two friends, who were not themselves parties to any proceeding before the SDM. No documentary material was produced in the pre-summoning evidence to show that the matter titled “*Ankit Jain v. Gram Sabha*” was listed or being taken up at that time, or that CW2 and CW3 had any legitimate role in those proceedings. The Reader and the police official, who would have been independent witnesses to the occurrence, were admittedly present but were not examined. In these circumstances, the Revisional Court was justified in holding that the Petitioner had not adequately explained his presence, and in accepting, for the limited purpose of examining the bar under Section 197 Cr.P.C., that the Respondent believed he was dealing with unauthorised or disruptive persons in his office. Action taken by a presiding officer to regulate entry or maintain order within office premises bears a reasonable connection with the discharge of official functions.

11. The reliance placed by the Petitioner on ***Choudhury Parveen Sultana v. State of West Bengal***, does not advance his case. That decision reiterates the principle that a public servant cannot claim protection for acts which bear no connection with official duty and amount to naked abuse of



authority. It does not, however, lay down that every allegation of assault or intimidation automatically falls outside Section 197. The Supreme Court has consistently held that even where excessive or unwarranted force is alleged, if the act has a reasonable nexus with the performance, or purported performance, of official functions, sanction is a condition precedent to prosecution.⁴ In the present case, the acts complained of occurred within the official premises, during office hours, in the context of the Respondent allegedly directing removal of persons treated as unauthorised. Whether his conduct was justified or whether disproportionate force was used are matters for a competent forum if and when sanction is obtained; they do not, at this stage, efface the reasonable nexus between the alleged act and the discharge of his official role as SDM.

12. The contention that the Sessions Court unjustifiably revisited the pre-summoning evidence or conducted a “mini-trial” is also without merit. A revisional court is entitled, and indeed obliged, to examine whether the Magistrate has overlooked a statutory bar or proceeded to take cognizance in a manner contrary to law. Where the complaint is directed against a public servant and the facts alleged *ex facie* suggest that the act complained of was done in the course of official functions, the question of Section 197 Cr.P.C. is a jurisdictional threshold that can and must be considered at the summoning stage. The Sessions Court has not weighed the credibility of witnesses to return findings of fact on guilt. The Court has confined itself to assessing whether, taking the circumstances as a whole, the Respondent was acting in his official capacity such that sanction was mandatory before cognizance could be taken. This approach does not call for interference.

⁴ *G.C. Manjunath & others v Seetaram* 2025 INSC 439; *Matajog Dobey v. H.C. Bhari* 1955 SCR (2) 925



13. The scope for interference under Section 528 BNSS (482 Cr.P.C.) with a revisional order is extremely limited. This Court is not sitting as a second appellate forum to re-appreciate evidence or substitute its own view merely because another view may be possible. Interference is warranted only where the impugned order suffers from patent illegality, perversity, or results in a manifest failure of justice.⁵ In the present case, the Revisional Court has applied the correct legal test for Section 197 Cr.P.C., has considered the factual matrix in proper perspective, and has recorded a plausible conclusion that the Respondent, as SDM, was acting in the discharge or purported discharge of his official duties. No perversity or jurisdictional error is demonstrated so as to invite the exercise of inherent powers.

14. In view of the above discussion, this Court finds no ground to interfere with the impugned order. The petition is accordingly dismissed along with pending applications, if any.

SANJEEV NARULA, J

NOVEMBER 24, 2025/ab

⁵ *Kailash Verma v. Punjab State Civil Supplies Corporation & Anr* (2005) 2 SCC 571