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

**%** ***Date of Decision: 28.10.2026***

\# **CNR No. DLHC010514582026**

\+ **CRL.M.C. 8036/2026**

HARVINDER .....Petitioner

Through: Mr. Naresh Panwar, Adv.

versus

THE GOVERNMENT OF NCT OF DELHI & ORS.....Respondents

Through: Mr. Utkarsh, APP for State.
SI Ashish, PS JP Kalan.

**CORAM:**
**HON'BLE MR. JUSTICE SACHIN DATTA**

**SACHIN DATTA, J. (ORAL)**

**Crl.M.A.33568/2026 (**Exemption from filing certified / legible and translated copies of annexures)

1. The application is disposed of with a direction to the petitioner to file certified/legible copies of the annexures before the next date of hearing.

**CRL.M.C. 8036/2026 & Crl.M.A.33569/2026**

2. The petitioner is the complainant and one of the injured in FIR No. 16/2012, dated 21.02.2012, registered at P.S. Jaffar Pur Kalan, South West (Delhi), under Sections 147/148/149/452/323/186/324/427/34 of the Indian Penal Code, 1860 and Sections 3/4 of the Prevention of Damage to Public Property Act, 1984.

3. The trial is pending before Judicial Magistrate First Class-09, South

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West District, Dwarka Courts, New Delhi, in Criminal Case 421397/2016. During the course of the trial, the petitioner, on the basis of the deposition of Prosecution Witness (PW) 6 (Sushila), moved an application under Section 358 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "*BNSS*") [corresponding to Section 319 of the Code of Criminal Procedure (hereinafter "*CrPC*")], seeking the relief to summon additional accused persons. *Vide* order dated 03.02.2026, Ld. JMFC-09, South West District, Dwarka Courts, New Delhi, kept the application in abeyance till the remaining injured witnesses are examined. The same was followed in the order dated 25.08.2026.

4. Furthermore, Ld. JMFC-09, South West District, Dwarka Courts, New Delhi, *vide* order dated 11.03.2026, took note of the petitioner's two applications filed under Sections 311 and 362 of the CrPC, respectively. It is stated that the same also remains undecided.

5. Section 358 of the BNSS (or Section 319 of the CrPC) permits the trial Court to proceed against any person if evidence during an inquiry or trial shows that such person has committed an offence. The grounds asserted in the application filed by the petitioner are predicated on the evidence recorded on 06.03.2025.

6. It is noticed that the case arises out of an FIR of 2012. The applications have been pending for a substantial period of time. Furthermore, nothing in the order dated 03.02.2026 shows why the evidence of the remaining witnesses is necessary to decide the same.

7. Accordingly, the following directions are issued:

a. Ld. JMFC-09, South West District, Dwarka Courts, New Delhi

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shall decide the petitioner's application under Section 358 of the BNSS (or Section 319 of the CrPC) on the evidence already on record, by way of a reasoned order on the next date of hearing, without awaiting examination of the remaining witnesses;

b. The petitioner's applications under Sections 311 and 362 of the CrPC shall also be decided on the same date.

8. All rights and contentions of the parties on the merits of the application are left open.

9. The petition, along with the pending application, is disposed of in the above terms.

**SACHIN DATTA, J**

**OCTOBER 28, 2026/**cl/vk

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