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

% *Date of Decision: 21.04.2026*

+ **CRL.M.C. 3002/2026, CRL.M.A. 12222/2026 & 12221/2026**

SHAMEEM AHMAD

.....Petitioner

Through: Mr. Amit Gupta and Mr. Prateek  
Mehta, Advocates.

versus

STATE OF N.C.T. OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP for State  
with SI Akash.

**CORAM: JUSTICE GIRISH KATHPALIA**

**J U D G M E N T (ORAL)**

1. Petitioner has assailed judgment and order dated 29.01.2026 of the Court of Sessions, whereby order dated 15.05.2025 of the learned trial magistrate was upheld, thereby holding the petitioner liable to be charged under Section 33/52 of the Delhi Excise Act.

2. Having heard learned counsel for petitioner, I do not find the petition worth even issuing notice.

3. At the outset, the issue of maintainability has been put to the learned counsel for petitioner. The impugned judgment and order dated 29.01.2026



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were passed in the revision proceedings instituted by the present petitioner. The provision under Section 438(3) BNSS categorically prohibits filing of the second revision petition. It is trite that what is explicitly prohibited by law cannot be allowed backdoor entry invoking inherent powers, unless a case of gross injustice is brought before the High Court.

4. Broadly speaking, according to prosecution case, on the basis of secret information, the Head Constable and the accompanying constable on patrol duty intercepted a car smuggling illegal liquor. The car was found to be carrying three boxes of liquor distilled, blended and bottled by RSL Distilleries Private Ltd., Haryana. The forensic examination of the contents of those bottles revealed it to be containing ethyl alcohol. Accordingly, the FIR was registered and investigation was carried out. Driver of the intercepted car fled away. The investigating officer obtained the ownership particulars of the car from the transport authority and according to the same, it is the present petitioner who is the registered owner of the said car.

5. The learned trial magistrate, after examining the chargesheet followed by the supplementary chargesheet, framed charge against the petitioner under Section 33/52 Delhi Excise Act.

6. The said order of the learned trial magistrate was assailed by the petitioner before the Court of Sessions and the said order was upheld by way of the judgment and order impugned in the present petition.



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7. In the impugned judgment and order, the learned Court of Sessions, after placing reliance on a number of judicial precedents on the parameters to be kept in mind while framing charge observed thus:

*“22. Perusal of the record shows that present case revolves around registration of ownership of a Santo Car bearing no. DL3CAJ 6290, used in the commission of offence on 20.02.2022. In this regard, verification report of aforesaid vehicle from concerned RTO official is very crucial. Record reveals that as per reply received from DTO, South Zone, the aforesaid vehicle is registered in the name Shameem Ahmed, appellant/ accused herein. During the present proceedings in revision petition, fresh and detailed verification report was called by this Court. Perusal of the said verification report along-with certified copy received from concerned RTO offices shows that aforesaid Car from the period 31.01.2006 to 27.07.2006 was registered in the name of Manab Bhattacharjee. Further, from the period 28.07.2006 to 01.01.2018, it was registered in the name of Girish Kumar. Thereafter, till date, it is registered in the name of accused i.e. Shameem Ahmad. Further, the registration of aforesaid vehicle was valid till 30.01.2021 and thereafter, according to the RTO office, no extension was granted for the said vehicle. It means that as per record, till date, the appellant/ accused is the owner of the aforesaid vehicle. The aforesaid fact on record, coupled with the case of prosecution prima facie indicates of committing a criminal offence and cannot be overlooked and gives rise to constitute a criminal offence. The contention for adjudication on pure question of fact which may be adequately adjudicated upon only by the trial court and while doing so, even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by this Court for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that on the basis of material available on record including the complaint, a grave suspicion arises against accused for having committed offences u/sec. 33/52 Delhi Excise Act and therefore, the impugned order passed by Ld Trial Court,*



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*cannot be interfered with.”*

8. It is against the above backdrop that the issue to be examined is as to whether it is a case of gross injustice. The answer, to my mind, is in negative.

9. Learned counsel for petitioner has taken me through the chargesheet as well as supplementary chargesheet, annexed with the petition as Annexure P-4 and Annexure P-6. It is contended by learned counsel that according to the investigation, the petitioner had sold away the car in question, though its registration could not be transferred because the same expired during the period of Covid pandemic. It is contended by learned counsel that the petitioner cannot be held vicariously liable on the ground that he could not get the transfer of the vehicle registered with the transport authority. Learned counsel for petitioner also places reliance on the e-receipt issued by the transport authority, copy whereof is Annexure P-3 to the petition. Learned counsel also places reliance on order dated 01.12.2023 of a coordinate bench of this court in the case titled ***Parkash Kumar Bhatia vs The State of NCT of Delhi***, CRL. M.C. 6595/2023.

10. To begin with, the judicial precedent relied upon by learned counsel for petitioner is of no help because the same stands on distinct footing, as discussed hereafter.

11. In the present case, the chargesheet describes the circumstances as follows. The car intercepted by police on the basis of secret information was



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found transporting illicit liquor. The present petitioner, on being found to be registered owner of the car in question was issued notice under Section 133 Motor Vehicles Act by the IO and in response thereto, the petitioner stated that he had given the car to one Pawan for being sold away and subsequently Pawan sold away the car to Shaurabh but Shaurabh did not get the car transferred in his name. But in further investigation, the IO found that the address of Shaurabh disclosed to him by the petitioner was false as at that address, some Ram Bihari Rathore was residing for past 30 years. The IO could not locate Shaurabh. Even in further investigation, Shaurabh could not be located. According to prosecution, there is nothing reliable to show that the car in question was not owned by the petitioner at the time of the alleged offence. In other words, the petitioner was allegedly found to be in possession of illicit liquor which he was getting transported in his car.

12. The question as to whether prior to the alleged recovery of illicit liquor in the intercepted car the petitioner had sold away the car in question to Shaurabh would be a matter of trial.

13. It is certainly not a case of gross injustice for which this court would ignore the explicit prohibition on second revision as stipulated by Section 438(3) BNSS. Historically speaking, the provision under Section 397(3) CrPC, which is precursor of Section 438(3) BNSS was enacted by the legislature specifically to curb the malpractices of the persons accused of an offence to keep challenging an order repeatedly before courts exercising superior jurisdiction, so as to protract the trial.



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14. The present petition is not just devoid of merit but the same is completely frivolous attempt of somehow to protract the trial. Therefore, the petition is dismissed with costs of Rs.15,000/- to be deposited by petitioner with DHCLSC within four weeks. Pending applications stand disposed of.

15. Of course, nothing observed in this judgment shall be read to the prejudice of either side at final stage of trial and the learned trial court shall take an independent view on the basis of the evidence adduced. Copy of this order be sent to the learned trial court.

**GIRISH KATHPALIA  
(JUDGE)**

**APRIL 21, 2026/ry**