



2025:DHC:9951



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

Reserved on: 04.11.2025
Date of Decision: 13.11.2025

+ W.P.(CRL) 3614/2025 & CRL.M.A. 32575/2025
RAJ BABBARPetitioner

Through: Dr. M K Gahlaut, Adv.

versus

UNION OF INDIA MINISTRY OF HOME AFFAIRS
& ORS.Respondents

Through: Ms. Rupali Bandopadhyaya, ASC
for State along with SI Vikash Fageria, ASI
Satpal

Mr. Neeraj Kumar, CGSC and Mr. Amit
Acharya, GP for UOI

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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1. The present writ petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ has been filed on behalf of the petitioner seeking the following reliefs:

“i. Pass a writ/order/instruction/direction in the nature of mandamus in favour of the petitioner and against the respondents thereby directing the respondents to constitute the body/committee of Retired Hon’ble High Court Judge, retired Additional commissioner of Police/Joint commissioner of Police and member

¹ Hereinafter “BNSS”



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of National Human Right Commission to conduct the inquiry in respect of six police officials whose identity is clear and two other police officials whose identity are in knowledge of six police officials as mentioned above on the complaint dated 06.10.2025 of the petitioner.

ii. Pass a writ/order/instruction/direction in the nature of mandamus in favour of the petitioner and against the respondents thereby directing the respondents to constitute the body/committee of Retired Hon'ble High Court Judge, retired Additional commissioner of Police/Joint commissioner of Police and member of National Human Right Commission to conduct the inquiry in respect of conduct of S.H.O. Police Station Subzi Mandi, Assistant Sub Inspector Satya Pal Singh, Constable Shankar Lal No. 1406/N and W/Ct. Manita No. 1906/N in respect of forging and fabricating the contents of the FIR No.520/25 P.S. Subzi Mandi, Delhi.

iii. Pass a writ/order/instruction/direction in the nature of prohibition in favour of the petitioner and against the respondents thereby prohibiting the respondent No.3 from passing any order on the complaint dated 06.10.2025 vide Dy. No.25255 of the petitioner.

Any other order/relief/direction may also kindly be passed in favour of the petitioner and against the respondents as this Hon'ble Court may deems fit, just and proper according to the facts and circumstances of the present case.”

2. As per the record, the petitioner claims to be a practicing Advocate at Delhi enrolled with the Bar Council of Delhi under Enrolment No. D-95/2000 and having his office at Chamber No.455, II Floor, Western Wing, Tis Hazari Courts, Delhi-110054.

3. Learned counsel appearing on behalf of the petitioner submit that on 28.09.2025, at about 04:00 hours, near Tripolia Gurmandi/Rana Pratap Bagh, Delhi, an occurrence took place involving the petitioner, his acquaintances, and certain police officials alleged to be 7-8 in civil clothes. The petitioner alleges one head constable namely Paramjeet to have inflicted physical injury to the petitioner resulting in loss of one tooth and that a sum of Rs.52,000/-



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was removed from his possession. He alleges that further sums were removed from two other private individuals named Dabbu and Mohit in the amounts of Rs.1,90,000/- and Rs.60,000/- respectively.

4. It is further submitted that thereafter five persons including him were taken to AATS Pitampura, North-West District, at around 05:00 hours, and thereafter, allegedly taken back towards the earlier spot. The petitioner further alleges certain amounts were distributed *inter se* the persons involved.

5. On 06.10.2025, the petitioner lodged a written complaint addressed to DCP Vigilance, Barakhamba Road, Delhi, *vide* diary No.25255 dated 06.10.2025.

6. On 19.10.2025, an FIR bearing No.520/2025 was registered at Police Station - Subzi Mandi, Delhi, under Sections 12/9/55 of the Delhi Public Gambling Act, 1955², naming accused persons including the present petitioner and other named individuals namely Rajan, Anil, and Raj Kumar @ Kalua. The FIR is shown to have been recorded on information of ASI Satya Pal Singh. The place of occurrence in the FIR is recorded as Sita Saran Colony, Subzi Mandi, Delhi.

7. The petitioner asserts that the registration of the FIR dated 19.10.2025 was subsequent to his complaint dated 06.10.2025 and alleges that the FIR contents are manipulated on account of alleged misconduct with the petitioner on 28.09.2025. It is urged that the contents of the said FIR are forged, fabricated, manipulated and prepared to shield the eight police officials against whom the petitioner had made a complaint on 06.10.2025.

² Hereinafter "DPG Act"



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8. It is submitted that there is institutional bias because DCP Vigilance is part of the same police hierarchy and is examining allegations against police officers of the same force. The petitioner submits that the inquiry by DCP Vigilance is in violation of the rule *nemo judex in causa sua*, the rule against bias, and that no person can be a judge in his own cause.

9. It is submitted that the petitioner relies on the principle declared in ***Ranjit Thakur v. Union of India***³ and other such judgments as per which inquiry must be done by an impartial agency and absence of impartiality renders the proceedings *coram non judice*. He also submits that in cases where local police are accused and when the investigating agency is itself alleged to be involved, investigation should be with an independent agency such as CBI.

10. In view of the foregoing submissions, the petitioner has sought directions for constitution of an independent body/committee consisting of a retired High Court Judge, retired Additional Commissioner/Joint Commissioner of Police, and a member of the National Human Rights Commission for inquiry concerning six named police officials and two yet to be identified police officials, and also concerning SHO P.S. Subzi Mandi, ASI Satya Pal Singh, Constable Shankar Lal and W/Constable Manita, with respect to alleged fabrication of contents of FIR No.520/2025.

11. Heard. Issue notice.

12. *Per Contra*, learned ASC, appearing on advance notice on behalf of the State vehemently opposed the instant petition. She

³ (1987) 4 SCC 611



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submits at the outset that the instant petition is not maintainable as the petitioner has failed to exhaust alternative remedies and provisions provided in the procedural laws such as the BNSS. As per the same, the petitioner ought to have approached the jurisdictional police station, and then the DCP. In the event of no action, the petitioner's remedy is before the Magistrate under the BNSS and not by straightway invoking the extraordinary writ jurisdiction of this Court under Article 226.

13. She also submits that the petitioner is a habitual offender with criminal antecedents and the submissions made before this Court are baseless. His involvement in other pending criminal cases are as follows:

- a. FIR No. 186/1991, under Sections 186/341 of the Indian Penal Code, 1860⁴, PS – Mukherjee Nagar, Delhi.
- b. FIR No. 439/2001, under Sections 186/353/332/342/341 of the IPC, PS – Mukherjee Nagar, Delhi.
- c. FIR No. 163/2011, under Sections 325/341 of the IPC, PS – Mukherjee Nagar, Delhi.
- d. FIR No. 409/2016, under Sections 448/453 of the IPC, PS – Mukherjee Nagar, Delhi.
- e. FIR No. 952/2017, under Sections 12/9/55 of the DPG Act, PS – Mukherjee Nagar, Delhi.
- f. FIR No. 221/2023, under Sections 323/341/506/363/34 of the IPC, PS – Mukherjee Nagar, Delhi.

⁴ Hereinafter "IPC"



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g. FIR No. 511/2025, under Sections 12/9/55 of the DPG Act, PS – Mukherjee Nagar, Delhi.

14. She submits that the writ Court is not to be approached as a Court of first instance for such fact-disputed allegations and that the prayer in substance is to supervise, monitor and direct the mode and manner of the investigation, which is impermissible in law in view of the well-settled ratio that investigation is the domain of the statutory investigating agency and judicial interference at a pre-investigation/investigation stage is limited to extremely narrow contours.

15. She accordingly submits that the present petition is liable to be dismissed at the threshold, on the ground of availability of efficacious alternate statutory remedies, apart from the fact that the allegations in the petition would require evidence, appreciation of disputed facts, and cannot be adjudicated by this Court in writ jurisdiction.

16. Heard the parties and perused the material available on record.

17. At the outset, this Court notes that the present writ petition, invoking Article 226 of the Constitution of India read with Section 528 of the BNSS, seeks constitution of a Committee, to undertake an inquiry in respect of certain named police officials as well as two other unnamed officials, and further seeks prohibition against the DCP, Vigilance from taking any decision on the petitioner's complaint dated 06.10.2025. The reliefs, as sought, in effect, seek substitution of the statutory investigative mechanism.

18. Upon perusal of the record, it is not in dispute that FIR No.520/2025 dated 19.10.2025 stands registered at P.S. Subzi Mandi



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under Sections 12/9/55 of the DPG Act, wherein the petitioner is one of the named accused.

19. Further, it is not disputed that the petitioner, prior to or after addressing a letter dated 06.10.2025 to the office of DCP Vigilance, did not invoke the available remedies under the BNSS. The petitioner, instead of following the procedure under the BNSS, invoked the writ jurisdiction.

20. This Court is of the *prima facie* view that the petitioner's case raises arguable questions regarding the maintainability of the present petition, as rightly averred by the learned ASC.

21. The Hon'ble Supreme Court in ***Priyanka Srivastava v. State of U.P.***⁵ and in ***Ranjit Singh Bath & Anr. v. Union Territory Chandigarh & Anr.***⁶ has reiterated the settled position of law that before invoking the jurisdiction of the Magistrate under Section 156(3) of the Code of Criminal Procedure, 1973⁷, the complainant must necessarily exhaust the remedies available under Sections 154(1) and 154(3) of the CrPC. The Hon'ble Court held that applications under Section 156(3) of the CrPC must be accompanied by an affidavit and must disclose, with supporting material, that a written complaint was first made to the officer in charge of the police station and thereafter, to the Superintendent of Police upon refusal to register the FIR. The absence of such compliance would, under the circumstances, render the order directing registration of the FIR unsustainable in law.

⁵(2015) 6 SCC 287

⁶Criminal Appeal No. 4313 of 2024, decided on 06.03.2025

⁷ Hereinafter "CrPC"



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22. Chapter VII of the BNSS (corresponding to Chapter XII of the CrPC) provides an explicit statutory sequence in such situations. Section 173 of the BNSS requires that information constituting a cognizable offence be placed before the officer-in-charge of the jurisdictional police station. Section 174 of the BNSS thereafter contemplates the remedy before the Superintendent of Police in the event of non-registration / inaction. Only thereafter, does the statute contemplate recourse to the Magistrate. These statutory provisions are linear, mandatory and non-dispensable.

23. In the above backdrop, the prayers sought before this Court would, if entertained, amount to this Court acting as the forum of first instance, bypassing the scheme of BNSS in its entirety. It is well-settled that writ jurisdiction is to be exercised in extremely exceptional circumstances.

24. In the facts at hand, the petitioner has not exhausted the sequential statutory remedies available under the BNSS. There is, therefore, no foundation to invoke the extraordinary jurisdiction of this Court.

25. Further, the nature of allegations is intensely disputed on facts, the adjudication of which necessarily requires appreciation of evidence and cannot be undertaken in the writ jurisdiction.

26. Having considered the submissions and upon perusal of the material placed on record, this Court finds no ground to exercise its writ jurisdiction in the present matter on the grounds of availability of efficacious, adequate and complete statutory remedies under the BNSS, and on the further ground that the reliefs sought amount to



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seeking supervisory control over investigation, which is impermissible in law.

27. The petition is, accordingly, dismissed being not maintainable. Pending applications(s), if any, stands disposed of.

28. No opinion is expressed on the merits of the allegations. All rights and remedies in accordance with law stand reserved.

29. The judgment be uploaded on the website forthwith.

AJAY DIGPAUL, J.

NOVEMBER 13, 2025/gs/ryp