



\$~49

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

% *Date of decision: 29th August, 2025*

+ CRL.M.C. 6065/2025, CRL.M.As. 25768/2025, 25769/2025 &
25770/2025

SUDESH KUMAR DECEASED THROUGH HIS LEGAL

REPRESENTATIVE SH PARTHPetitioner

Through: Mr. Varun Goswami & Ms.
Davshita Sharma, Advocates.

versus

SARABJIT SINGH ANAND & ORS.Respondents

Through: Mr. Digam Singh Dagar, APP
for the State with SI Ramawati,
PS Maurice Nagar.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. Petitioner is before this Court seeking setting aside of order dated 11.08.2025 passed by the Ld. Trial Court whereby the right of the petitioner/complainant to lead further pre-charge evidence has been closed. He seeks an opportunity to examine the remaining witnesses including part evidence of CW-2.

2. Brief factual background of the case is that the complainant alongwith three other persons are stated to be the owner of property in question having purchased the said property from S. Manjeet Singh Anand by virtue of Sale Deed dated 31.07.2006. That the seller



delivered the vacant and peaceful possession of the said property shown in red ink and nobody objected at that time. The complainant deputed at the site his *Chowkidar* and started the renovation work over the said portion of the property. The remaining portion of the said property was in possession of the step-brothers (accused) of S. Manjeet Singh/seller. Their possession was not disturbed by the Complainant in any manner. However, on 24.08.2006 both the accused persons started quarrelling with the complainant and asked the labourers to stop the renovation work. The work was stopped and then matter was reported to the Police vide D.D. No.64- B. dated 24.08.2006.

3. Subsequently, private criminal complaint case under Section 200 Cr.PC against the accused persons for offences under Sections 341, 506, 448, 380, 323, 34 of IPC was filed.

4. In the criminal proceeding arising therefrom, order dated 11.08.2025 was passed which is impugned herein. The same reads as under:-

“The matter is listed for pre-charge evidence. However, it is submitted by CW Joginder Singh that his counsel is not available today. The present matter is pending since 2006 and it is one of the oldest matters pending before the court. On the LDOH as well, the matter was adjourned due to want of complainant and the adjournments have been taken by complainant on 26.05.2025, 30.04.2025, 23.09.2024, 01.07.2024, 05.02.2024, 26.09.2023, 16.05.2023, 09.01.2023.

The adjournment sought today is without any cogent reason and sufficient time and opportunities have been given to the complainant to conclude his pre-charge evidence. The accused persons were summoned in 2008 and accordingly the court is not inclined to give further opportunities to complainant to conclude his evidence. Record further reflects that the complainant has previously also taken a lot of adjournments and



even the copy was supplied to the accused only when last opportunity was given after three dates. Cost has also been imposed by the Ld. Predecessors of this court on the CRL.M.C.-6065-2025 44 complainant.

Accordingly, the right of complainant to lead further pre-charge evidence stands closed. Arguments on charge heard today.

List for orders on 02.09.2025 at 02:00 p.m. ”

5. The case set up, as per the grounds in the petition and so are the arguments urged by the learned counsel for the petitioner, is as below:

5.1 That the learned Trial Court erroneously observed that the case was pending since 2006 and the petitioner/complainant has taken multiple adjournments, and completely overlooked that on seven preceding dates, CW-2, Joginder Singh Chhabra sought only two exemptions.

5.2 That the learned Trial Court committed a gross illegality in hearing the ‘arguments on charge’ in the absence of the petitioner/complainant’s counsel when a specific request for adjournment was sought on account of counsel not being available.

5.3 That the arguments on charge are of crucial importance and the petitioner/complainant ought to have gotten the opportunity to present his case. But the learned Trial Court proceeded without hearing the petitioner.

6. Having heard and perused the order assailed herein, I am of the view that given the nature of the order which is proposed to be passed, no notice is required to be served to the private respondent since no prejudice would be caused to him.

7. At the outset, trite it may sound, but it is well settled that the right to a fair trial is guaranteed under Article 21 of the Constitution of



India. No doubt, this right cannot be misused to seek repeated adjournments and unduly prolong the proceedings. At some stage, the trial court must adopt deterrent measures to maintain a balance between the interests of the complainant and the accused.

8. However, in the present case, it appears that the trial court was influenced by the petitioner's previous request for an adjournment to lead evidence on the crucial day. Nevertheless, the record clearly reflects that the complainant had a bona fide reason for seeking time, as duly recorded in the impugned order dated 11.08.2025. Although the witness was present in court, the adjournment became necessary due to the absence of the counsel.

9. The petitioner/complainant ought not thus be made to suffer irreparable prejudice due to the lapse of his counsel. It is settled law that the party should not suffer for the action or misdemeanour of his counsel.

10. In the premise, the over emphasis of the learned trial court to not grant the adjournment to avoid delay would cause severe prejudice to the petitioner/complainant in the absence of the evidence which he wishes to rely. In fact adducing the evidence would also help the learned trial court to unearth the truth.

11. It may not be out of place to observe that while justice delayed without a doubt is justice denied, at the same time justice hurried is justice buried.

12. Taking a wholesome view of the matter the petition is allowed subject to payment of cost of Rs. 15,000/- to each of the accused. It is made clear that only two effective opportunities (since it is stated that



2025:DHC:7667



there are 3 CWs to be examined) shall be given to the petitioner/complainant to adduce the evidence by the learned trial court. However the trial court shall be at liberty to grant further opportunities at its own discretion depending upon the exigency of the day to day workload.

13. The petition along with pending applications is disposed of accordingly.

ARUN MONGA, J

AUGUST 29, 2025/rs/nk