



2026:DHC:8965



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

Reserved on: 30.09.2026

Date of Decision: 12.10.2026

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CNR No. DLHC010167132025

+ **CRL.M.C. 2148/2025 & CRL.M.A. 9622/2025**

ZUBAIR AHMED

.....Petitioner

Through: Mr. Siddharth Aggarwal, Sr. Adv.
along with Ms. Smriti Sinha, Ms.
Aleena, Ms. Vismita Diwan, Mr.
Japman Singh, Mr. Divyash Sharma,
Adv.

versus

STATE GOVT. OF NCT OF DELHI AND ANRRespondents

Through: Ms. Meenakshi Dahiya, APP with Mr.
Aditya Vikram Singh, Adv. Mr.
Madhav Sareen, Ms. Raunak Wahi,
Ms. Vanshika Jha, Ms. Pradhi Sahni,
Mr. Raghvendra Pratap Singh, Adv.
for R-2. Insp. Ramkesh, P.S. EOW.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [hereinafter referred to as 'BNSS'], seeking quashing of the order dated 07.02.2025 passed by the learned Chief Judicial Magistrate, South District, Saket Courts, New Delhi, in ***Criminal Case No. 308/2022***, titled "*State v. Navin M Raheja & Ors.*", arising out of ***FIR No. 603/2018*** dated 05.10.2018, registered at Police Station Saket, South District,



Delhi, and all consequential proceedings qua the petitioner. *Vide* the impugned order, the learned Trial Court took cognizance of the offences under Sections 406, 420 and 120B of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC'], and summoned the petitioner to face proceedings.

FACTUAL BACKGROUND

2. The petitioner in the present case was appointed as a Non-Executive Director of M/s Raheja Developers Ltd. [hereinafter referred to as 'the company'] on 20.08.2009. In 2014, respondent no. 2, Rajat Dayal, and his wife, Astha Dayal, booked a residential unit bearing no. C-011, on the first floor of Tower-C, in the company's project, "*Raheja Revanta*", situated at Sector-78, Shikohpur, Gurugram. An Agreement to Sell [hereinafter referred to as 'ATS'] dated 31.12.2014 was thereafter executed for a total sale consideration of ₹1,94,51,485.

3. Thereafter, a Memorandum of Understanding [MoU] dated 28.01.2015 was also executed between the allottees and the company which provided that the allottees could seek cancellation of the booking within 33 to 36 months from the date of booking and receive a refund of the amount paid, together with a guaranteed premium of ₹1,400 per square foot. The company was required to effect cancellation within 60 days of the expiry of 36 months from the date of booking, with interest payable at the rate of 18% per annum for delay in repayment. The allottees also availed a housing loan of ₹1,35,00,000 from ICICI Bank, pursuant to a tripartite agreement dated 28.01.2015, under which the loan proceeds were to be disbursed directly to the company.

4. The petitioner tendered his resignation by a letter dated 18.08.2015, and the records of the Registrar of Companies reflected cessation of his directorship on 21.08.2015. Subsequently, according to the complaint, the



allottees visited the project site in June 2017 and found that construction was delayed, so by a letter dated 01.09.2017, Astha Dayal [wife of respondent no. 2] sought cancellation of the booking and refund of the amount paid, along with the premium stipulated in the MoU.

5. Respondent no. 2 and his wife alleged that, despite repeated assurances by the company's representatives regarding repayment, the amounts payable to them and the outstanding bank liability were still not cleared. A sum of ₹20,00,000 was refunded on 28.05.2018. Alleging that the remaining commitments had not been honoured and that they had been induced to invest through false representations, they submitted a complaint to the police dated 04.09.2018 against the company, its directors and certain officials. The petitioner was not named in the said complaint.

6. Thereafter, the complainants approached the concerned jurisdictional Court by filing a complaint under Section 200 of the Code of Criminal Procedure, 1973 [hereinafter referred to as 'CrPC'], and sought directions under Section 156(3) CrPC for registration and investigation of a criminal case concerning the alleged cheating, criminal breach of trust and conspiracy. Acting on the said complaint, the learned Additional Chief Metropolitan Magistrate, South District, Saket Courts, New Delhi, passed an order dated 05.10.2018 under Section 156(3) CrPC directing registration of the FIR. In compliance with the said order, **FIR No. 603/2018** was registered on the same date at Police Station Saket, South District, Delhi, under Sections 406, 420 and 120B IPC, the investigation of which was conducted by the Economic Offences Wing [hereinafter referred to as 'EOW']. During the investigation, the company and the allottees executed a Settlement Deed dated 23.04.2019, providing for repayment of the amounts due to the allottees and discharge of



the concerned housing loan liability. Cooperation in quashing the FIR was contingent upon fulfilment of the obligations stipulated therein.

7. During the investigation, the EOW obtained records from the Registrar of Companies concerning the company's directors and their respective tenures. These records reflected that the petitioner had held office during the period in which the residential unit was booked and the agreements were executed. Therefore, his role was examined along with that of the other directors who had held office during the relevant period. On completion of the investigation, a charge-sheet dated 27.12.2021 was filed on 13.01.2022 under Section 173 CrPC. Prosecution was sought against Navin M Raheja, Yogesh Raheja and the company. The petitioner's name was placed in Column no. 12[*Khana* No. 12]. The investigating agency recorded that he had served as a Non-Executive Director from 20.08.2009 to 21.08.2015, received only sitting fees for attending Board meetings and was not involved in the company's day-to-day affairs. It further recorded that no incriminating evidence had emerged against him during the investigation. Accordingly, although his role had been investigated, the investigating agency did not seek his prosecution.

8. Following the filing of the charge-sheet respondent no. 2 sought summoning of the persons whose names appeared in Column no. 12 thereof. In the synopsis dated 05.01.2023 placed before the learned Trial Court, it was alleged, *inter alia*, that the petitioner regularly attended Board meetings during the relevant period, was aware of the alleged conspiracy and knowingly acted in furtherance thereof.

9. *Vide* the impugned order dated 07.02.2025, the learned Chief Judicial Magistrate, South District, Saket Courts, New Delhi, took cognizance of the



offences under Sections 406, 420 and 120B IPC. As regards the persons placed in Column No. 12, the learned Trial Court observed that the material disclosed their active participation in the transactions and *prima facie* involvement in the alleged offences. Accordingly, summons were issued to the petitioner also along with the other persons named in Column No. 12.

10. Aggrieved by his summoning and the consequential proceedings, the petitioner has preferred the present petition seeking quashing/setting aside of the impugned order *qua* him.

SUBMISSIONS ADVANCED

On behalf of the petitioner

11. At the outset, learned senior counsel appearing on behalf of the petitioner, responding to the submission of learned counsel for respondent no. 2 that the settlement had not been fulfilled, submits that the said settlement was entered into between the complainants and the company, which had been placed in Column No. 11 of the charge-sheet. He submits that the petitioner was placed in Column no. 12 and was not a party to the said settlement. It is, therefore, contended that the alleged non-fulfilment of the settlement cannot constitute a basis for proceeding against the petitioner in the absence of any specific allegation or incriminating material against him.

12. Learned senior counsel appearing on behalf of the petitioner submits that the petitioner was a Non-Executive Director of the company from 20.08.2009 to 21.08.2015 and had tendered his resignation on 18.08.2015 itself. That he was not named in the police complaint dated 04.09.2018 or the concerned FIR, and no specific role was assigned to him. It is pointed out by the learned senior counsel that the ATS dated 31.12.2014 contemplated delivery of possession within a period of 48 months, whereas the grievances



concerning delay in construction, cancellation of the booking and subsequent assurances of repayment arose in 2017–2018, after the petitioner had left the company.

13. Referring to the charge-sheet, the learned senior counsel submits that the investigating agency examined the petitioner's role and the records obtained from the Registrar of Companies, and found that he received only sitting fees for attending the Board meetings and was not involved in company's day-to-day affairs. It is submitted that since no incriminating evidence emerged against the petitioner, his name was placed in Column no. 12 by the investigating agency. While accepting that the learned Magistrate could differ from the investigating agency's opinion, the learned senior counsel submits that summoning the petitioner still required material that would disclose his involvement in the alleged transactions.

14. Learned senior counsel further contends that paragraph 2(iii) of the impugned order reproduces the assertions in the complainant's synopsis as though they formed part of the charge-sheet filed by the investigating agency. The allegations regarding the petitioner's attendance at Board meetings and knowledge of the conspiracy are stated by the learned senior counsel to be unsupported by any document or witness statement, while the reasons provided by the learned Magistrate to summon the petitioner are stated to be just general observations regarding the persons placed in Column No. 12. It is urged that allegations in a synopsis cannot substitute investigative material and that the order passed by the learned Magistrate reflects non-application of mind. Learned senior counsel further submits that a copy of the protest petition was not available to the petitioner. He also points out that respondent no. 2 has neither filed a reply nor placed any material before this Court.



15. It is further submitted that the petitioner's capacity and tenure are undisputed, and no meeting with the complainants, document signed by him or participation in their transactions has been shown by the other side. That his prosecution merely as an erstwhile director would amount to fastening vicarious criminal liability on account of his designation alone. According to the learned senior counsel, accepting the charge-sheet as it stands discloses no case against the petitioner and requires no detailed examination of disputed facts.

16. Learned senior counsel distinguishes the decision of this Court in ***Sangita Arora v. State (NCT of Delhi)***, 2026 SCC OnLine Del 7032, to submit that the director in the aforesaid case held approximately 34% shareholding and there was material on record showing her involvement, including documents that were signed by her. He submits that no such material has been placed against the petitioner in the present case.

On behalf of respondent no. 2

17. *Per contra*, learned counsel appearing on behalf of respondent no. 2 opposes the present petition and submits that the breach in 2017 cannot be treated as the commencement of the conspiracy and that the petitioner's resignation does not, by itself, exclude his involvement in the earlier transactions as the alleged conspiracy commenced with the transactions in 2014–2015, when the petitioner continued to be a director. It is further submitted that the ATS was executed in December 2014 and the MoU in January 2015, before the petitioner's resignation in August 2015 thereby making his involvement clear in the alleged transaction.

18. Learned counsel further submits that this Court need only examine whether the learned Magistrate applied his mind before issuing summons, and



that the impugned order in the present case satisfies this requirement as it considered the roles attributed to the persons placed in Column No. 12, the material with respect to them and the applicable law as well. Reliance is placed upon ***Jagdish Ram v. State of Rajasthan, (2004) 4 SCC 432***, to contend that the Magistrate is not bound by the investigating agency's opinion and need only be satisfied that sufficient ground exists for proceeding against the persons concerned, rather than for conviction. It is submitted that an elaborate reasoned order is stated to be unnecessary at the stage of issuance of process.

19. It is further submitted that the petitioner's description as a Non-Executive Director does not determine his status as to his actual involvement in the alleged transactions. It is submitted that whether his attendance at Board meetings and association with the company during the negotiations and execution of the agreements disclosed participation in the conspiracy are matters that require consideration at the stage of trial, but not at the stage of deciding whether to take cognizance or not. Learned counsel further contends that examination of these issues at the stage of taking cognizance would amount to a mini-trial.

20. Learned counsel while acknowledging that the availability of the remedy of revision does not, by itself, bar invocation of this Court's inherent jurisdiction submits, that the petitioner has furnished no cogent reason for directly approaching this Court without availing the remedy of revision available to him under Section 397 CrPC to approach the learned Sessions Court. Reliance in this regard is placed on ***Prabhu Chawla v. State of Rajasthan, (2016) 16 SCC 30***.



21. As regards the earlier orders, learned counsel submits that the order dated 28.03.2025 granted no stay and merely provided for consideration of an application for exemption from personal appearance, if moved. He alleges that subsequent orders recording continuation of the interim order have nevertheless been relied upon to avoid participation in the Trial Court proceedings, constituting an abuse of the very process of the Court.

On behalf of the petitioner in Rebuttal

22. In rebuttal, the learned senior counsel submits that the petitioner moved an application for exemption from personal appearance pursuant to the order dated 28.03.2025, for consideration by the learned Trial Court in accordance with law. He denies having represented that the proceedings had been stayed and submits that the objection concerning interim orders has no bearing on the merits of the present challenge.

ANALYSIS AND FINDINGS

23. This Court has heard the respective learned counsels appearing on behalf of the parties concerned and has perused the material placed on record.

24. The principal issue which arises for consideration of this Court is whether the impugned order, insofar as it directs issuance of process against the petitioner, reflects the requisite application of judicial mind by the concerned learned Trial Court in terms of Sections 190 and 204 of the CrPC.

Summoning of an individual placed in Column no. 12 of the charge-sheet

25. Sections 190 and 204 of the CrPC [corresponding with Sections 210 and 227 of BNSS respectively] govern the power of a Magistrate to take cognizance of an offence and issue process thereafter. While Section 190 empowers the Magistrate to take cognizance of an offence, Section 204



requires the Magistrate to be satisfied that sufficient ground exists for proceeding against the person sought to be summoned. Therefore, before issuing process, the Magistrate must apply his/her judicial mind to the material placed before the Court and determine whether it provides sufficient ground(s) for proceeding against the person(s) concerned.

26. In ***Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609***, the Supreme Court held that issuance of process requires judicial application of mind and sufficient ground for proceeding against the accused person. Though detailed reasons are unnecessary, an order giving no reasons or reasons which are *ex facie* incorrect is liable to be set aside. The relevant observations are reproduced below:

“51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot



be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words “sufficient ground for proceeding” appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect.” [Emphasis Supplied]

27. In ***Radesh Singh v. State, 2011 SCC OnLine Del 901***, a Coordinate Bench of this Court held that where the Magistrate disagrees with the conclusion of the investigating agency and summons a person not sent up for trial, the order passed in such a case must indicate the reasons for taking a contrary view and identify the *prima facie* material disclosing that person’s role in the alleged offences. The relevant observations made in the aforesaid judgment are as under:

“4. There were no external injuries on the person of Kartar Singh and there was no evidence of internal injuries. Kartar Singh did not make statement immediately after the incident and the complaint was filed in writing by Kartar Singh after deliberations. Under these circumstances, it was incumbent upon the learned MM to spell out for which offence she was taking cognizance qua the petitioners and how that offence was made out and what was the role played by different



offenders. No doubt, a Magistrate takes cognizance of the offence and not of the offenders, but when he sends summons to an offender he sends summons asking the offender to face trial. The Magistrate must be clear in her mind as to what were the offences made out against the offender and that there was prima facie evidence against him, more specifically when the police during investigation has not been able to find out evidence of involvement of the offender. Since the Magistrate disagreed with the report of the police and considered that there was evidence to summon the petitioners and asked them to face trial, she must have spelt out the reasons for summoning the petitioners placed in column No. 2. If the police had collected sufficient evidence and forwarded challan in respect of the offenders, the Magistrate may take cognizance of the offence and summon all such offenders for facing trial as named by police on the basis of evidence collected by the police but where the police has not found evidence and the Magistrate considered that there was sufficient evidence, then the Magistrate must pass a speaking order for summoning such offenders against whom, in the opinion of the police there was no evidence."

28. The legal position is thus very well settled. A magistrate is not bound by the opinion of the investigating agency when deciding whether to issue process against any individual or not, and if the concerned Magistrate finds sufficient ground to issue process even against the individuals mentioned or named in Column no. 12 [Khana no. 12] of the chargesheet who are those against whom even the investigating agency did not find any material that would warrant sending them up for trial, such Magistrate is not restricted or



restrained by any law to do so. But the law at very same time demands, that the concerned Magistrate in such cases or situations pass, a '*speaking order*' which upon a bare perusal of it discloses sufficient grounds for proceeding against such individuals. Such an order need not be detailed as to its contents, but this requirement of passing a reasoned order which would disclose sufficient reasons for summoning such individuals becomes essential, as the investigating agency which is tasked with collecting material which would assist the Court to decide whether to issue process or not, did not find any at the very threshold.

Examination of the Impugned order and the material on record

29. For examining whether the impugned order discloses the material considered and the basis on which process was issued by the learned Magistrate against the petitioner in the present case, this Court deems it apposite to reproduce the relevant portions of the charge-sheet, the synopsis dated 05.01.2023 filed by respondent No. 2 and the impugned order.

Chargesheet

Zubair Ahmed, he was appointed as non executive director (from 20.08.2009 to 21.08.2015) in M/s Raheja Developers Pvt Ltd and he was not paid any salary/ remuneration but only paid board sitting fees as and when he attended the board meetings of accused company. Not involved in day-to-day activities of the company.

Synopsis



Zubair Ahmed	That the suspect was director of the company at the time of the commission of the offence against the complainants. That the suspect was the non-executive Director who actively and regularly attended the board meeting. The said accused was aware about the criminal conspiracy of the company i.e, to cheat cause wrongful lose, give false assurance, give misrepresentation of facts and get wrongful gains for themselves and his compliance to the above said conspiracy and knowingly following the direction and actively attending board meeting clearly show evidence to charge the suspect. That director of the company are not only the agent and trustee of the company but also act as the custodian who has been high degree of trust of by its investor when the same director along with others betray that trust and misrepresent, deceive and wrongly induces the investor than an offence U/s 406/420 & 120B IPC are well made out against the director.
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Impugned order

“2. From the contents of the charge-sheet and the roles allegedly played by the persons kept in column no.12 are that:-.....

(iii) The suspect Zubair Ahmad was the director of the company at the time of the commission of the offence against the complainants. He was the Non- Executive Director who actively and regularly attended board meetings. He was aware about the criminal conspiracy of the Company- i.e. to cheat; cause wrongful loss, give false assurance, give misrepresentation of facts, and get wrongful gains for themselves and his compliance to the to the abovesaid conspiracy and knowingly following the directions and actively attending board meetings clearly show enough evidence to charge the



suspect. Director of the company are not only the agent and trustee of the company but also act as the custodian, who has been invested with high degree of trust by its investors.”

“9. So far as the summoning of the accused persons mentioned in column no. 12 is concerned, bare perusal of the charge-sheet shows that accused persons actively participated during the entire transactions and there are clear allegations against them.

10. So far as the other accused persons mentioned in the column no. 12 is concerned, some of the accused were directors, some of them were authorized signatory and some of them were authorized representative and all of them were the employees of the who have prima facie involved in committing the said offences. Thus, connivance of the suspects mentioned in column no.12 / officials with the accused persons in commission of the offence also cannot be ruled out.

11. There is sufficient material on record so as to proceed further against all the accused persons namely Naveen Raheja, Yogesh Raheja in column no.11. Md. Yousuf Khan, Manoj Kumar Goyal, Zubair Ahmed, Rajat Kalra, Sarveshwar, Deepa Tekchandani, Ajay Kumar Mohanty, Adil Altaf, Celina Hurry, Sandeep Singh Thapar, Venika Kapoor and Divya Negi. Accordingly, all the accused persons mentioned in column no. 11 as well as column 12 be summoned through IO, returnable on 01.03.2025.” [Emphasis supplied]

30. A perusal of the aforesaid extracts reveals, that the allegations recorded in paragraph 2(iii) of the impugned order, namely, that the petitioner actively and regularly attended Board meetings, was aware of the alleged criminal conspiracy, knowingly followed the directions issued in furtherance thereof



and thereby participated in the alleged offences, do not emanate from the charge-sheet. It is further revealed that these allegations are substantially a reproduction of the assertions contained in the synopsis dated 05.01.2023 filed by respondent no. 2 . The charge-sheet on the contrary records, that the petitioner was a Non-Executive Director, received only sitting fees for attending Board meetings, was not involved in the day-to-day affairs of the company and that no incriminating evidence had emerged against him during the investigation. Consequently, the observation made in the impugned order that a “*bare perusal of the charge-sheet*” disclosed the petitioner’s active participation, as is discernible, is not borne out from the charge-sheet itself.

31. It is undoubtedly true that the learned Trial Court was not bound by the opinion of the investigating agency and was competent to take a different view and summon a person placed even in Column no. 12 of the charge-sheet. But if the learned Trial Court intended to proceed on the allegations contained in the synopsis, it was at least, required to identify the material supporting those allegations and record its satisfaction that such material constituted sufficient ground for proceeding against the petitioner. The synopsis could draw the attention of the learned Trial Court to material allegedly overlooked during the investigation but the assertions made therein could not, by themselves, substitute the very material on the basis of which the law requires a Magistrate to decide whether to issue process or not. Although the impugned order was not required to reproduce every allegation against the petitioner or undertake a detailed discussion of the material, it was nevertheless required to indicate, at least briefly, the material which *prima facie* disclosed his individual role in the alleged offences and in the present case, no such material is identified in the impugned order. Mere reproduction of the allegations followed by a



collective conclusion against all persons placed in Column no. 12 does not reflect the independent application of judicial mind as is required by the law discussed hereinabove.

32. The learned Magistrate correctly noticed the settled proposition that a Magistrate is not bound by the conclusion of the investigating agency and may even summon a person placed in Column no. 12. It however, did not advert to the concomitant requirement, that the exercise of such power must be supported by a speaking order. Where the investigating agency has expressly found absence of incriminating material against a person, a contrary conclusion need not involve a meticulous evaluation of the evidence, but the order must at least identify the material relied upon and briefly indicate why it furnishes sufficient ground for proceeding against that person. Such reasons are necessary to demonstrate independent application of mind and to enable judicial scrutiny of the departure from the investigative conclusion. The impugned order, while correctly stating the width of the Magistrate's power, does not disclose the basis on which that power was exercised against the petitioner. This Court is therefore of the opinion that the impugned order in the present case, insofar as the petitioner is concerned, is a non-speaking order.

Course to be adopted

33. Now the defect discernible from the aforesaid discussion concerns the very exercise of judicial discretion by the learned Magistrate. Where an order issuing process against a person not sent up for trial does not disclose the material relied upon or the basis upon which the concerned satisfaction of the Magistrate was recorded against this person or in short, if such an order is a non-speaking order, this Court ought not ordinarily substitute its own first-



instance assessment with that of the Magistrate. The most appropriate course in such cases is to set aside the defective order to that limited extent and remit the question of issuance of process for fresh consideration.

34. In ***Shiv Jatia v. Gian Chand Malick & Ors.***, 2024 INSC 142, the Supreme Court, upon finding that the order issuing process did not reflect due application of mind, observed that an order of remand was warranted. The Supreme Court proceeded to examine the merits only on account of the exceptional circumstance that the complaint was nearly twenty years old and the summoning order itself was eleven years old. No comparable circumstance arises in the present case as the impugned order is dated 07.02.2025, and the issue can appropriately be reconsidered by the learned Trial Court on the basis of the complete record.

35. In ***Sanjit Bakshi v. State (NCT of Delhi)***, 2022 SCC OnLine Del 3614, a cryptic and non-speaking order taking cognizance was similarly set aside and the learned Trial Court was directed to reconsider the matter afresh on the basis of the charge-sheet. The same course was adopted by a Coordinate Bench of this Court in ***Radesh Singh v. State (supra)***, wherein the summoning order was set aside and the matter was remanded to the learned Magistrate for fresh consideration.

36. Accordingly, this Court is of the opinion that the same course is warranted in the present case. The charge-sheet and the synopsis filed by respondent No. 2 place different versions regarding the role of the petitioner before the learned Trial Court and it is for the learned Trial Court to examine the complete record, ascertain whether the allegations contained in the synopsis are supported by material on record and determine whether sufficient ground exists for proceeding against the petitioner under Section 204 of the



CrPC. The omission in the impugned order cannot be cured by this Court undertaking that exercise for the first time, as doing so would substitute the satisfaction of this Court for the satisfaction required to be independently formed by the learned Trial Court.

37. The objection raised by respondent No. 2 regarding the petitioner's failure to first avail the remedy of revision under Section 397 CrPC also does not merit acceptance. In ***Prabhu Chawla v. State of Rajasthan, (2016) 16 SCC 30***, the Supreme Court held that the availability of revisional jurisdiction does not, by itself, operate as a bar to the exercise of the inherent jurisdiction of the High Court, even though such power must be exercised with self-restraint. The present interference is confined to correcting the failure of the impugned order to disclose the basis for issuance of process against the petitioner and to remitting that question for a fresh decision. Such limited exercise neither determines the merits nor substitutes the satisfaction required to be formed by the learned Trial Court.

CONCLUSION

38. In view of the aforesaid discussion, the impugned order dated 07.02.2025 passed by the learned Chief Judicial Magistrate, South District, Saket Courts, New Delhi, in ***Criminal Case No. 308/2022***, titled "***State v. Navin M Raheja & Ors.***", is set aside to the limited extent that it directs issuance of process against the petitioner.

39. Accordingly, the matter is remitted to the concerned learned Trial Court for fresh consideration on the question whether sufficient ground exists for issuing process against the petitioner or not.

40. The concerned learned Trial Court shall reconsider the question afresh on the basis of the complete material available on its record, including the



2026:DHC:8965



charge-sheet, the synopsis filed by respondent No. 2 and the material, if any, relied upon in support thereof, and shall pass a reasoned order insofar as the petitioner is concerned, in accordance with law.

41. The findings recorded herein are confined only to the manner in which the impugned order has been passed. This Court has neither examined nor determined whether the complete material on record is sufficient for proceeding against the petitioner or not. The said question, together with all contentions of the parties, is left open for fresh consideration by the learned Trial Court in accordance with law.

42. It is clarified that, **Criminal Case No. 308/2022**, arising out of **FIR No. 603/2018** dated 05.10.2018, registered at Police Station Saket, South District, Delhi, has not been quashed in the present petition. The proceedings against the other accused persons shall continue in accordance with law and remain unaffected by this judgment.

43. Accordingly, the present petition is partly allowed in the aforesaid terms and thereby, disposed of.

44. The pending application also stands disposed of.

45. Interim order(s) or direction(s), if any, stands vacated.

46. A copy of this judgment be sent to the concerned learned Trial Court for information and necessary compliance.

47. This judgment be uploaded on the website *forthwith*.

MADHU JAIN
(JUDGE)

OCTOBER 12, 2026/PG