



2026:DHC:9160



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 05.10.2026
Date of Decision: 15.10.2026
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+ CRL.M.C. 2164/2025 & CRL.M.A. 9791/2025

SMT MANJU DALMIA

....Petitioner

Through: Mr. Anukrit Gupta, Advocate
versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP for State

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petition has been filed by the Petitioner, Smt. Manju Dalmia, under Section 482 of the Code of Criminal Procedure, 1973, read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of **FIR No. 338/2021** dated 28.04.2021, registered at P.S. Kotwali, Chandni Chowk, under Sections 188, 269 and 34 of the IPC, Section 344 of the Delhi Municipal Corporation Act, 1957, and Section 51 of the Disaster Management Act, 2005, along with the chargesheet and consequential proceedings pending before the learned JMFC-08, Central District, Tis Hazari Courts, Delhi.



FACTUAL MATRIX

2. The Petitioner purchased the entire second floor, along with roof rights, of property bearing Municipal Nos. 1961–1964, Katra Shahan Shahi, Chandni Chowk, New Delhi, through a registered sale deed. She subsequently sought clarification from the North Delhi Municipal Corporation regarding permission for repair work, whereupon she was informed that, under Clause 2.0.1(d) of the Unified Building Bye-Laws, 2016, no building permit was required for permissible repairs.
3. On 06.04.2021, the SHO, P.S. Kotwali, informed the Executive Engineer (Building), North DMC, about alleged unauthorised construction at the property. Consequently, North DMC issued a work-stop notice dated 08.04.2021, which was executed by ASI Brijesh Kumar, and the contractor, Munna Khan, was instructed to stop the work.
4. On 28.04.2021, while patrolling the area, ASI Brijesh Kumar allegedly found labourers working at the subject property. Suspecting that construction work was being carried out in violation of the work-stop notice and the COVID-19 lockdown restrictions, he submitted a written report, pursuant to which the impugned FIR was registered under the aforementioned provisions.
5. During the investigation, the Executive Engineer, North DMC, submitted a report and issued proceedings, including a demolition order, a show-cause notice under Section 345A of the DMC Act, and a work-stop notice. Subsequently, a notice under Section 91 CrPC was issued to the Petitioner seeking ownership documents, the sanctioned building plan and the agreement with the contractor. In her reply, the Petitioner maintained that only repair and maintenance work had been undertaken and that the requisite approvals had been obtained.



6. Following the investigation, the chargesheet was filed and cognizance of the alleged offences was taken by the learned Trial Court. The Petitioner appeared through counsel and was admitted to bail. The matter is presently pending consideration on the aspect of framing of charge and furnishing of the order of this Court concerning the quashing petition.

7. The Petitioner, a senior citizen with medical ailments, has approached this Court seeking quashing of the impugned FIR, chargesheet and all consequential proceedings, contending that the allegations do not disclose the essential ingredients of the offences alleged and that the proceedings suffer from non-application of mind and absence of the requisite mens rea.

SUBMISSIONS ON BEHALF OF THE PETITIONER

8. Learned counsel for the Petitioner submits that the essential ingredients of Section 34 IPC are not made out in the present case. The final report filed under Section 173 CrPC does not disclose any material to establish that the alleged act was committed in furtherance of a common intention.

9. It is submitted that the allegations under Section 344 of the Delhi Municipal Corporation Act are misconceived, as the complainant proceeded on the mistaken assumption that construction work was being carried out at the subject property, whereas the work undertaken was merely routine repair and renovation of the shop. It is further submitted that the requisite *mens rea* is absent, as the Petitioner had no intention to commit any offence and the incident arose from a misunderstanding regarding the nature of the work being undertaken.

10. Learned counsel submits that the Petitioner is a law-abiding citizen belonging to a respectable family and has deep roots in society. It is



contended that the continuation of criminal proceedings, despite the absence of the essential ingredients of the alleged offences, would cause grave injustice and prejudice to the Petitioner.

11. It is further submitted that the Petitioner is a senior citizen suffering from various medical ailments and that the alleged offences are minor in nature. The continuation of criminal proceedings in such circumstances would cause undue hardship and irreparable prejudice to the Petitioner and amount to an abuse of the process of law,

12. Learned counsel submits that the complainant, ASI Brijesh Kumar, proceeded on an erroneous assumption that unauthorised construction was being carried out at the subject property. It is contended that the work undertaken by the Petitioner was limited to routine repairs and maintenance, for which the requisite permissions had been obtained. The allegations, therefore, arose from a mistaken assessment of the nature of the work being undertaken.

13. It is submitted that the Petitioner has no other efficacious remedy and has accordingly approached this Hon'ble Court for the exercise of its inherent jurisdiction under Section 482 CrPC to prevent abuse of the process of law and secure the ends of justice.

14. Learned counsel further submits that the alleged offences arose in the context of restrictions imposed during the COVID-19 pandemic and pertain to a minor alleged violation of the applicable guidelines. It is contended that such offences are not heinous in nature and that the continuation of criminal proceedings after the passage of considerable time would serve no useful purpose. It is further submitted that various High Courts and State Governments have favoured the withdrawal or amicable resolution of cases



involving minor violations of COVID-19 restrictions.

15. Learned counsel submits that this Hon'ble Court, as well as the Hon'ble Punjab and Haryana High Court, have quashed FIRs in similar cases involving alleged violations of COVID-19 guidelines and offences under Sections 188, 269 and 34 IPC and Section 51 of the Disaster Management Act, 2005, in exercise of their inherent jurisdiction under Section 482 CrPC.

16. It is further submitted that DDMA Notification No. F/2/07/2020/PT File-III/397 dated 25.04.2021, while imposing restrictions on the movement of individuals during the curfew period, permitted certain essential activities and services subject to the prescribed conditions. The notification specifically permitted services rendered by self-employed persons, including electricians, plumbers and persons engaged in repairing water purifiers. It is contended that the nature of the work undertaken at the subject property ought to have been examined in light of the exemptions and permissions contained in the notification.

17. Learned counsel further submits that the notification provided for the applicability of Sections 51 to 60 of the Disaster Management Act, 2005, Section 188 IPC and other applicable laws in the event of a violation. It is contended that a notification issued by a government authority is subject to the constitutional framework under Article 13 of the Constitution and that Section 269 IPC is not attracted in the facts and circumstances of the present case.

18. Learned counsel for the petitioner relied upon the judgment in **Priya Narang v. State of Delhi (Govt. of NCT) & Ors.**, CRL.M.C. 1706/2022, decided by this Court on 2 May 2023.



SUBMISSIONS ON BEHALF OF THE STATE

19. The learned APP appearing on behalf of the State relies upon the status report and submits that the present petition seeking quashing of the FIR is liable to be dismissed for the following reasons:

20. It is submitted that on 28.04.2021, ASI Brijesh Kumar, while patrolling the Chandni Chowk Road area, found certain labourers carrying out construction work at property bearing No. 1961-1964, Katra Shahenshahi, Chandni Chowk, Delhi. The North Delhi Municipal Corporation had already issued a work stop notice dated 08.04.2021 in respect of the said property. Accordingly, ASI Brijesh Kumar served the work stop notice and stopped the construction work, while strictly instructing the builder, Munna Khan, not to carry out any further construction.

21. The learned APP submits that, during the relevant period, a complete lockdown was in force in Delhi from 19.04.2021 to 03.05.2021 due to the COVID-19 pandemic, pursuant to the directions issued by the Delhi Disaster Management Authority. Despite the restrictions imposed during the lockdown and the work stop notice issued by the municipal authorities, construction work was allegedly carried out at the aforesaid property by engaging labourers. Consequently, the present FIR was registered at P.S. Kotwali, Delhi, and the investigation was taken up by SI Ramesh Chand.

22. It is further submitted that, during the investigation, the Investigating Officer, along with ASI Brijesh Kumar, visited the place of occurrence. Although the labourers had left the spot, the tools used for construction were found at the property. The Investigating Officer seized the said tools vide a seizure memo and deposited them in the Malkhana of the police station. A site



plan was also prepared at the instance of ASI Brijesh Kumar, and the statements of the witnesses were recorded under Section 161 Cr.P.C.

23. The learned APP further submits that the investigating agency made efforts to trace contractor Munna, who was allegedly supervising the construction work. However, he could not be traced as his address and other particulars were not available.

24. It is submitted that, during the course of investigation, a notice under Section 91 Cr.P.C. was issued to the Executive Engineer (Building), SP City Zone, Delhi, seeking an action-taken report regarding the unauthorised construction at the aforesaid property. In response, the municipal authorities supplied relevant documents, including a demolition order, a show-cause notice under Section 345A of the Delhi Municipal Corporation Act, a work stop notice and photographs concerning the property. These documents had been issued in relation to the property owned by the petitioner, Smt. Manju Dalmia.

25. The learned APP submits that the petitioner was thereafter directed, vide notice dated 27.09.2021 under Section 91 Cr.P.C., to produce the ownership documents of the property and the building sanction plan or permission granted by the North Delhi Municipal Corporation for the construction work. The documents produced by the petitioner established that property bearing No. 1961-1964, Katra Shahenshahi, Chandni Chowk, Delhi, stood registered in her name. However, she had not obtained the requisite building sanction plan from the municipal authorities for carrying out construction activities at the said property.

26. It is further submitted that the petitioner was served with a notice under Section 41-A Cr.P.C. on 20.11.2021, and the allegations against her were



explained. The allegations relate to the engagement of labourers for construction work during the period when restrictions had been imposed to control the spread of COVID-19. It is the case of the prosecution that the gathering of labourers at the property, during the period when such restrictions were in force, created a risk of the spread of infection and amounted to a violation of the applicable directions issued under the Disaster Management Act, 2005. It is also alleged that the construction work was being carried out without the requisite building sanction plan approved by the competent authority.

27. The learned APP further submits that the petitioner was given an opportunity to explain her position in relation to the allegations. However, the municipal authorities had already issued a demolition order, a show-cause notice and a work stop notice in respect of the unauthorised construction at the property. These documents form part of the material collected during the investigation and support the prosecution's case regarding the alleged unauthorised construction.

28. It is further submitted that, pursuant to a notice issued under Section 91 Cr.P.C., the petitioner was asked to provide the address and particulars of contractor Munna. In her written response, the petitioner stated that she had engaged labourers from Labour Chowk, Chandni Chowk, for the construction work and had not obtained their names or addresses. She further stated that a person named Munna was supervising the work but had left for an unknown place after the construction was stopped. Despite efforts made by the investigating agency, contractor Munna could not be traced.

29. The learned APP submits that the requisite complaint under Section 195 Cr.P.C. was obtained from the Assistant Commissioner of Police, Sub-



Division Kotwali, North District, for prosecuting the petitioner in respect of the alleged offences. Upon completion of the investigation, the charge sheet was filed before the concerned trial court against the petitioner for the offences under Sections 188 and 269 IPC, Section 344 of the Delhi Municipal Corporation Act and Section 51 of the Disaster Management Act, 2005.

30. It is lastly submitted that the matter is pending before the concerned trial court and is listed for arguments on charge. In view of the material collected during the investigation, including the statements of witnesses, the seizure memo, the site plan, the documents received from the municipal authorities and the petitioner's own response regarding the engagement of labourers and contractor Munna, the prosecution submits that the allegations require consideration by the trial court.

FINDINGS AND ANALYSIS

31. This Court has considered the rival submissions and examined the material placed on record. The question at this stage is whether the allegations, taken at their face value, disclose the ingredients of the offences alleged or whether continuation of the proceedings would amount to an abuse of the process of law. The inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is to be exercised sparingly. At this stage, the Court is not required to determine the truth of the allegations or undertake a detailed appreciation of the evidence.

32. As regards Section 188 IPC, Section 195(1)(a) CrPC mandates that cognizance of an offence punishable under Section 188 IPC can be taken only upon a written complaint by the public servant concerned or by another public servant to whom such officer is administratively subordinate. In the present case, the learned APP has submitted that the requisite complaint under



Section 195 CrPC was obtained from the Assistant Commissioner of Police, Sub-Division Kotwali, North District. Accordingly, the statutory requirement under Section 195 CrPC stands satisfied, and no ground for interference with the proceedings under Section 188 IPC is made out on this count. The proceedings under the said provision shall, therefore, continue in accordance with law.

33. Section 60 of the Disaster Management Act, 2005, bars the Court from taking cognizance of an offence under the Act except upon a complaint made by an authority or officer specified therein or by a person who has complied with the prescribed 30-day notice requirement. In the present case, the State relies upon a complaint obtained under Section 195 CrPC in relation to the offence under Section 188 IPC. However, the material placed before this Court does not establish whether a complaint satisfying Section 60 was filed or whether the complainant was duly authorised under the said provision. The requirement under Section 60 is distinct from that under Section 195 CrPC. Accordingly, the original record must be examined to determine compliance with the statutory bar before the proceedings under Section 51 are permitted to continue.

34. Coming to Section 269 IPC, the provision penalises an unlawful or negligent act which the accused knows or has reason to believe is likely to spread the infection of a disease dangerous to life. The status report records that a complete lockdown was in force in Delhi from 19.04.2021 to 03.05.2021. The FIR alleges that, despite the restrictions, labourers were engaged in construction work at the subject property on 28.04.2021. At this stage, the Petitioner's contention that the work was merely for repair and maintenance does not, by itself, negate the allegation of negligence. The



engagement of labourers during the prevailing pandemic restrictions, if contrary to the applicable directions and undertaken in circumstances likely to spread infection, may prima facie attract Section 269 IPC. Whether the requisite knowledge or reason to believe, and the likelihood of spreading infection, are established would depend upon the evidence. Accordingly, the allegations do not warrant quashing of the proceedings under Section 269 IPC at this stage.

35. Coming to Section 344(1) of the DMC Act, the provision empowers the Commissioner to direct stoppage of building work commenced or carried out without the requisite sanction or in contravention of the Act or the applicable bye-laws. In the present case, the prosecution relies upon the work-stop notice dated 08.04.2021 and the subsequent municipal proceedings concerning the subject property, whereas the Petitioner contends that the work was limited to repairs and maintenance. Whether the work undertaken required municipal sanction depends upon its nature and extent and cannot be conclusively determined at this stage merely on the basis of the rival assertions. Further, the maintainability of the prosecution must be examined in light of Section 467(a) of the DMC Act, which mandates that no court shall proceed to the trial of an offence under Section 344 except upon a complaint made by, or information received from, an officer of the Corporation not below the rank of Deputy Commissioner, appointed by the Administrator. Accordingly, the applicability of Section 344(1), read with Section 467(a), must be assessed in light of the material on record, including whether the statutory requirement governing the institution of prosecution has been duly satisfied.

36. The judgment relied upon by learned counsel for the petitioner does not advance his case and is distinguishable on facts.



CONCLUSION

37. In view of the foregoing discussion, this Court finds no ground to quash the proceedings under Sections 269 and 188 of the IPC at this stage. The proceedings under Sections 269 and 188 of the IPC shall continue in accordance with law. The learned Trial Court shall undertake the aforesaid exercise independently, without being influenced by any observation made herein, which is confined to the consideration of the present petition.

38. Although, the challenge to the proceedings under Sections 51 of the Disaster Management Act, 2005, and 344(1) of the Delhi Municipal Corporation Act, 1957, requires examination of the original record in light of the statutory requirements discussed hereinabove.

39. Accordingly, the matter is remanded to the learned Trial Court for fresh consideration of the aforesaid provisions. The learned Trial Court shall examine the original complaint(s), if any, the relevant orders and notices, the competence and authorisation of the complainant(s), and compliance with the applicable statutory requirements, particularly Sections 467(a) of the DMC Act, and 60 of the Disaster Management Act, 2005.

40. It shall also examine the applicability of Section 344(1) of the Delhi Municipal Corporation Act, 1957, in light of the nature of the alleged construction work and the relevant municipal record, and pass an appropriate order in accordance with law.

41. The learned trial court shall pass a fresh speaking order of cognizance.

42. Let a copy of this order be communicated to the learned Trial Court for information and necessary compliance.

43. The petition stands disposed of in the above terms. Pending



2026:DHC:9160



application(s), if any, also stand disposed of.

**MADHU JAIN
(JUDGE)**

OCTOBER 15, 2026/RM

Signature Not Verified

Signed By: BHARTI
Signing Date: 15.10.2026
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CRL.M.C. 2164/2025

Page 13 of 13