



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

% **Reserved on: 04th July, 2025**

Pronounced on: 20th August, 2025

+ **CRL.M.C. 902/2021 & CRL.M.A. 4518/2021**

NAVEEN BANSAL
S/o Shri M.P.Bansal
R/o A-41, Aashiyana Garden,
Bhiwadi, Alwar,
Rajasthan.

.....Petitioner

Through: Mr. Jitendra Bharti, Advocate.

versus

STATE (GNCTD)

.....Respondent

Through: Mr. Utkarsh, APP for State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 Cr.P.C. has been filed on behalf of the Petitioner seeking quashing of FIR No.74/2018 dated 16.03.2018 under Section 420/468/471/120B IPC and Section 18(A)(1)/18(C)/27(B)(II)/27(C) of Drugs and Cosmetics Act, 1940 registered at Police Station Crime Branch, Delhi along with the Charge Sheet dated 12.06.2018 and Supplementary Chargesheet dated 19.02.2019.
2. ***Briefly stated***, FIR No. 74/2018 dated 16.03.2018 under Section 420/466/471/120B IPC and Section 18(A)(1)/18(C)/27(B)(II)/27(C) of



Drugs and Cosmetics Act, Police Station Crime Branch was registered in which after investigations, Chargesheet was filed on 12.06.2018 which was followed with a Supplementary Chargesheet dated 19.02.2019.

3. The case of the Respondent/State is that on the basis of secret information received by ASI Kanwar Pal on 15.03.2018 at about 12:00 P.M in regard to delivery of spurious drugs by one Ashok along with his friend Bijender (the two co-accused) at New Delhi Railway Station between 10:30 P.M to 11 P.M., a Raiding Team was constituted of the various Police officials and Sh. Sanjay Kumar, Drug Inspector was also requested to join the Raiding Team.

4. At about 11 P.M a white colour EECO car bearing registration No. DL-1-LV-7280 came and stopped near the Parcel Yards Gate. After about 15-20 minutes as the car was about to leave, the Raiding party stopped it and caught both the occupants of the car namely, Ashok and Bijender. On the search of the car, *four carton boxes of medicines* were recovered which on inspection, were declared as spurious by Drug Inspector. The two occupants of the car Ashok and Bijender were unable to furnish any License or Stock Permit for purchasing/selling or stocking the medicines found in their possession.

5. The samples were drawn from the carton boxes, which were sealed and seized by the Police. *FIR No.74/2018 under Section 420/468/471/120B IPC and Section 18(A)(1)/18(C)/27(B)(II)/27(C) of Drugs and Cosmetics Act was registered.* Both the accused persons were taken for investigations to the Police Station. SI Sandeep Yadav on the basis of their Disclosure Statements conducted raid at factory/house at Suleman Nagar, Delhi and



went to Bhiwadi, Patna, Calcutta, etc. to nab other connected persons involved in similar activities of spurious medicines.

6. On 19.03.2018, Police Officials conducted raid at the Factory and Shop in Bhiwadi from where allegedly certain medicines claimed to be spurious and belonging to the Petitioner, Naveen Bansal were seized and he was arrested on 20.03.2018. He was brought to Delhi, where further investigations were taken. Samples of seized medicines were sent to FSL and to the Pharmaceutical Companies. *As per the FSL Report, the drugs were found to be spurious.*

7. The Chargesheet dated 12.06.2018 and the Supplementary Chargesheet dated 19.02.2019 has been filed in the Court in respect of ***FIR No.74/2018*** before the Court of learned Sessions Judge.

8. The Petitioner ***Petitioner/Naveen Bansal*** has submitted that he is a businessman and a Chemist by profession doing the business of medicines under a valid License. He has claimed that SI Sandeep Yadav, I.O colluded with Umar Mohd. Owner of *M/s U.M. Engineering Works* at H-1/607, RICCO Industrial Area, Chpanki, Bhiwadi, Alwar, Rajasthan, who was instrumental in creating a forged Rent Agreement dated 08.05.2017 in respect of the alleged premises. He made a Complaint on which ***FIR No.17/2019*** was registered at P.S. Chpanki, Alwar against Umar Mohd and other persons.

9. On the registration of the FIR, SI Sandeep Yadav started threatening the Petitioner and made various phone calls, about which the Petitioner made a Complaint dated 18.03.2019 in the Vigilance Department. . He also submitted various DVDs containing their conversations.



10. The Petitioner had moved an **Application for discharge under Section 227 of the Cr.P.C before the learned ASJ, in the Chargesheet filed in FIR No.74/2018.**

11. The learned ASJ *vide* Order dated 08.08.2019 held that *prima facie* Charges under Section 420 read with Section 120-B IPC and 468/471 IPC read with Section 120-B IPC are made out **against all three accused** namely Bijender Singh, Ashok Kumar and Naveen Bansal. Further, *prima facie* charges under Section 27 (b)(ii)/27(c)/27 (d) of Drugs and Cosmetics Act, 1940 were made out **against the co-accused Bijender Singh and Ashok Kumar.**

12. The *impugned Order on Charge has been challenged by the Petitioner on the grounds* that the Chargesheet itself is bad in law. Investigations of the offences under Drug and Cosmetics Act, 1940 are governed by Section 32 of the Act which prohibits the Police Officers from investigating them. In the present case, the investigations have been conducted by the Police Officers of Crime Branch, Delhi, who had no jurisdiction and the investigations carried out are bad in law.

13. Reliance has been placed on *Union of India vs. Ashok Kumar Sharma* 2020 SCC OnLine SC 683. Once the Charges under Drugs and Cosmetics Act have been dropped, the Prosecution under the provisions of IPC cannot continue as they are ancillary to the charges under DMC Act. The Charges for the offences under IPC could not have been framed.

14. It is further contended that the Chargesheet has been filed directly in the Court of Addl. District & Sessions Judge (Special Judge) as provided in the Drugs and Cosmetics Act. However, it ought to have been filed before the concerned Magistrate and only thereafter, committed to the Court of



Sessions. The cognizance in the present case has been taken on the Police Report directly filed before the Sessions Judge, which is unsustainable in the eyes of law.

15. Reference has been made to Gangula Ashok and Anr. vs. State of Andhra Pradesh (2000) 2 SCC 504, wherein it was held that unless so differently provided, no Court of Sessions can take cognizance of any offence directly without it being committed to it by the Court of Magistrate. There is no provision in the Act which excludes application of Section 193 Cr.P.C. Further, Section 190 Cr.P.C. provides that cognizance cannot be taken by a higher Court and it is the Magistrate who shall commit the case if so required, as per the law.

16. Furthermore, after discharge of the Petitioner for the offence under D&C Act, a separate Complaint under Section 32 D&C Act has been filed before the Sessions Court, Alwar which establishes that there is something wrong with the Prosecution as it is attempting to do something indirectly, which it cannot do directly. The continuance of the FIR amounts to *double jeopardy* and would infringe fundamental rights of the Petitioner. The framing of charges against the petitioner is vitiated by law and unsustainable.

17. Furthermore, the *essential ingredients of Section 420/468/471 IPC are not made out against the Petitioner*. There is nothing material on record to show that the Petitioner has committed any offence. Aside from the Disclosure Statement of the co-accused, there is no other cogent evidence against the Petitioner. The Rent Agreement of the property from where the alleged medicines and the machines were recovered is fake and fabricated. The Petitioner had no connection with the alleged premises. However, SI



Sandeep Yadav had colluded with Umer Mohd. to create a fake Rent Agreement solely to falsely implicate the Petitioner.

18. Furthermore, the Investigating Agency has not been able to cite any person, vendor, individual to whom the Petitioner had supplied or sold these spurious drugs. This further shows the false implication of the Petitioner.

A prayer is, therefore, made that the FIR No.74/2018 along with the Chargesheet and the Supplementary Chargesheet be quashed against the Petitioner.

19. The **Status Report has been filed on behalf of the State** giving details of the investigations undertaken on registration of the FIR 74/2018 under Sections 420 / 468 / 471 / 120B IPC and Section 18(A)(1) / 18(C) / 27(B)(II) / 27(C) of D&C Act and recovery of cartons containing spurious drugs and also the labels and machine for the packing of such spurious medicines.

20. It is further stated that the seized samples of medicines were sent to Abbott Healthcare Pvt. Ltd., Sun Pharmaceuticals Industries Ltd. and Alcon Laboratories Ltd. for analysis and the Reports have been received that the recovered medicines are spurious.

21. The Drug Inspector Shri More Parth Kishal Lal has also filed separate Complaints against both accused Bijender and Ashok *vide* CC No. 274/2019 and CC No. 427/2019 which have been clubbed with the present case.

22. The Report has also been received from the Drug Inspector, Alwar, Rajasthan that the recovered medicines from the Applicant are spurious. Complaint under Section 32 Drugs and Cosmetics Act has been filed by the Drug Control Officer, Jaipur, Rajasthan before the Court of District &



Sessions Judge, Alwar, Rajasthan against the Applicant vide Case No.23/14/2020, which is pending trial.

23. It is further submitted that the Charges against the Applicant under the IPC offences have already been framed. The case is at the stage of Prosecution Evidence.

24. **The arguments were addressed on behalf of the Petitioner by the Ld. Advocate** also written arguments have been submitted. Essentially, the ground for discharge is that the Police Officials cannot prosecute for the offences under Chapter IV of Drugs and Cosmetics Act. It is contended that if the initial action is not in consonance with law, the consequential proceedings become *non est*.

25. Further, the offence is to be enquired and tried by the Court within whose local jurisdiction it is committed. Allegedly, the spurious drugs claimed to have been recovered from the factory allegedly owned by Petitioner in Alwar, Rajasthan. The cause of action has arisen in Rajasthan and this Court in Delhi has *no territorial jurisdiction* by virtue of Section 177 Cr.P.C.

26. In the end, it is contended that no prima facie evidence under Section 120B/468/471/420 IPC is made out since he had no concern or connection with the godown/factory at Alwar, which is established from the fact that the Rent Agreement in respect of those premises have been found to be forged, in regard to which FIR No. 17/2019 has already been registered.

27. Moreover, Section 36A and S.36 B of D&C Act provides that if the offences under IPC are also made out in addition to those under D&C Act, then it is the Special Court which would also have the jurisdiction to try the IPC offences. Therefore, it is the Special Court at Alwar, Rajasthan which



would be vested with the jurisdiction to try both set of offences. It is, therefore, submitted that the Chargesheet be quashed.

28. **Learned APP on behalf of the State** has vehemently contended that there is no merit in the contention of the Petitioner who has already been discharged for the offences under Drug & Cosmetics Act in regard to which the separate Complaint by the Drug Inspector has been filed in Alwar, Rajasthan, which is pending trial. The drugs were being supplied in Delhi and were being packaged at Alwar. The offence against the three accused is of conspiracy and the objection regarding to Section 177 Cr.P.C. is not maintainable.

29. It is submitted that the Charges have been rightly framed against the Petitioner under the IPC offences. There is no merit in the present Petition, which is liable to be dismissed.

Submissions heard and record perused.

30. Interesting proposition of law have come up for consideration in the present Petition, which are:

- (i) *whether the investigations can be done by a Police Officer in the offences involving IPC offences and D&C Act as well and the Charge-sheet under IPC offences and D&C Act filed;*
- (ii) *whether the Charge-sheet under IPC offences and D&C Act in which the Petitioner has been discharged for offences under D&C Act, would make the cognizance taken by Ld. Special Judge bad in Law and what are the consequences?*

31. The case of the Prosecution is that on the basis of secret information, a raid in which Drug Inspector was also a member was conducted on 15.03.2018. At about 11 P.M., a car was intercepted in which both accused Ashok and Bijender were present. Four cartons of medicines were recovered which on subsequent testing were found to be spurious.



32. Pursuant to their Disclosure Statements, the raids were conducted at the house at Suleman and two other places in Bhiwadi. On 19.03.2018, raid was conducted in the factory and shop and more medicines which were spurious were found and the present Petitioner Naveen Bansal was arrested on 20.03.2018.

33. After conclusion of investigations, the Chargesheet was filed in the *Court of Sessions/Special Judge under Drugs and Cosmetics Act who took cognizance vide Order dated 08.08.2013 under Section 420/468/471/120B IPC and Section 18(A)(1)/18(C)/27(B)(II)/27(C) of Drugs and Cosmetics Act.*

I. Whether the investigations can be done by a Police Officer in the offences involving IPC offences and D&C Act as well

34. The question which arises is whether a Police Officer can conduct investigations under Drugs and Cosmetics Act and file a combined Chargesheet for offences and Drugs and Cosmetics Act and IPC, as has been done in the present case.

35. Section 32 of Drugs and Cosmetics Act reads as under:

“32. Cognizance of offences —

(1) No prosecution under this Chapter shall be instituted except by—

(a) an Inspector; or

(b) any gazetted officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government or a State Government by a general or special order made in this behalf by that Government; or

(c) the person aggrieved; or

(d) a recognised consumer association whether such person is a member of that association or not.



(2) *Save as otherwise provided in this Act, no court inferior to that of a Court of Session shall try an offence punishable under this Chapter.*

(3) *Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter.”*

36. In the recent case of Ashok Kumar Sharma (supra), after discussing all the provisions of Drugs and Cosmetics Act and the relevant provisions of Cr.P.C, it has been held as under:

“170.1. In regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Act and also the scheme of Cr.P.C, the police officer cannot prosecute offenders in regard to such offences. Only the persons mentioned in Section 32 are entitled to do the same.

.....

170.3. Having regard to the scheme of Cr.P.C and also the mandate of Section 32 of the Act and on a conspectus of powers which are available with the Drugs Inspector under the Act and also his duties, a police officer cannot register an FIR under Section 154 Cr.P.C, in regard to cognizable offences under Chapter IV of the Act and he cannot investigate such offences under the provisions of Cr.P.C.”

37. Therefore, the law has been explicitly explained to the effect that *the Police Officer cannot prosecute offenders in regard to Offences under Chapter IV of the D&C Act.* The Police Officer cannot register an FIR under Section 154 Cr.P.C in regard to cognizable offences under Chapter IV of the D&C Act.

38. In the present case, the FIR for the offences under IPC and D&C Act was registered. Clearly, it is a case where in one transaction where offences under both the enactments were disclosed. The Police was well within its competence to investigate the offences under the IPC. The offences under



D&C Act fell within the domain of Drug Inspector, who after due investigations, has filed two separate Complaints against the Co-accused Ashok and Bijender and a separate Complaint against the Petitioner in Alwar. The Id. ASJ vide the impugned Order has discharged the Petitioner and the other two co-accused for the offences under D&C Act.

39. The Police officer has the jurisdiction to investigate the offences under IPC, in accordance with the provisions of Cr.P.C, as has been done in the present case. S. 32(3) D&C Act explicitly states that “*Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter*”, thereby implying that the investigations for the offences under other Laws (IPC in this case) can be undertaken by the police. The Petitioner and the Co-accused have thus, been rightly charge-sheeted for IPC offences.

II. *Whether the Charge-sheet under IPC offences and D&C Act, as well in which the Petitioner has been discharged for offences under D&C Act, would make the cognizance taken by Ld. Special Judge is bad in Law and what are the consequences?*

40. The next pertinent question that arises is whether the Chargesheet as filed in the present case which included offences of Drugs and Cosmetics Act, could have been filed before the learned Special Judge. In this regard, as already observed in Ashok Kumar Sharma (supra), no Chargesheet could have been filed by the Police Officer for the offences under Drugs and Cosmetics Act. The exclusive jurisdiction vests with the Drug Inspector who alone can file the Complaint before the designated Court.



41. In the present case, admittedly separate Complaints for the offences under Drugs and Cosmetics Act have been filed by the Drug Inspector, Delhi against Ashok and Bijender before the Special Judge, Delhi and a separate Complaint has similarly been filed for the Petitioner in the Court at Alwar, Rajasthan.

42. As already noted, there are additional allegations of the offences committed under Section 420/468/471/120-B IPC in so much as spurious medicines were being packaged in the foils which were forged and was being intended to be passed as genuine. The Reports of various Companies to whom the samples pertained, have been examined and who have given their Reports that the drugs were not only been spurious but also been packaged and marketed in fabricated packaging. It has also been specifically stated that by this act of the accused, there was wrongful loss caused to the original Companies. ***Prima facie offences under Section 420, 468, 471 read with Section 120-B IPC and Section 120-B were made out.***

43. However, considering that the Police Officer was not competent to file the Chargesheet for the offences under Drug and Cosmetics Act, it has to be necessarily held that the filing of the Chargesheet for the offences under D & C Act was without jurisdiction and has to be necessarily held as non-est.

44. Once these offences are deleted, the Chargesheet could not have been filed before the learned Special Judge, but should have been filed before the Court of learned JMFC. Pertinently, the other two co-accused Ashok and Bijender have not been made a party to the present proceedings, but considering the inherent lack of jurisdiction with the learned Special Judge who has taken cognizance on this Chargesheet disclosing offences triable by



the Magistrate, it is hereby directed that the Chargesheet for the IPC offences be remanded back to the Court of JMFC, who may take cognizance and conduct the trial afresh, in accordance with law.

Other Miscellaneous Objections:

(i) No prima facie case against the Petitioner for IPC Offences:

45. The petitioner has contended that there is no evidence against him except the disclosure statements of the Co-accused, which is inadmissible in law. Further, he had no concern or connection with the godown/factory at Alwar, which is established from the fact that the Rent Agreement in respect of the premises from where drugs were recovered has been found to be forged in regard to which FIR No. 17/2019 has already been registered.

46. It is at the instance of the co-accused that recoveries have been made, which is prima facie admissible under S. 27 Evidence Act (*Proviso to S. 23 BSA*). Likewise, it is a matter of trial whether the Petitioner had any concern with the factory premises. Mere registration of FIR about Rent Agreement being forged is not enough to exonerate the Petitioner as all these aspects can be adjudicated in a trial.

47. In any case, once it is directed that case be remanded back to JMFC, the Petitioner is at liberty to raise these contentions afresh before the Court.

(ii) Whether No offence was committed in Delhi and this Court has No Jurisdiction under S.177 Cr.P.C:

48. The case of the prosecution is of conspiracy between the Petitioner and the co-accused persons whereby the drugs were being supplied in Delhi and were being packaged at Alwar.

49. It cannot be said that Courts in Delhi, have no jurisdiction.



(iii) Plea of Double Jeopardy:

50. A plea has been taken that the petitioner by making to face the trial under both the Acts i.e. IPC and D&C Act is making him face two trials for the same offence.

51. However, this contention is without any merit since the offences under the two Acts are distinct for which separate trials can be held, as also provided under S. 32(3) D&C Act.

52. This contention is also, without merit.

Conclusion:

53. In view of the aforesaid discussion, the Petition is partly-allowed and it is directed that the Charge-Sheet be remanded to the concerned Court of JFMC, who shall proceed with the cognizance/trial in accordance with law. The matter be placed before the learned Special Judge on 03.09.2025.

54. It is hereby clarified that the learned Special Judge is at liberty to continue with the two Complaints, **CC. No. 274/2019 and 427/2019**, which have been filed under the Drugs and Cosmetics Act against the accused persons. Also, the observations herein are without prejudice to the merits of the case.

55. The Petition is accordingly disposed of, along with pending Application(s), if any.

**(NEENA BANSAL KRISHNA)
JUDGE**

AUGUST 20, 2025
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