



2025:DHC:4585



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% *Reserved on: 28<sup>th</sup> March, 2025*  
*Pronounced on: 28<sup>th</sup> May, 2025*

+ **CRL.M.C. 1621/2018 & CrI.M.A. 23887/2022**

**SUBHASH**

No. 436/W

S/o Lt. Shri Sunder Singh

R/o- V.P.O- Basana, Distt. Rohtak

Haryana

.....Petitioner

Through: Mr. Pratap Singh, Mr. Shivank Parta  
& Mr. Navneet Sharma, Advocates

versus

**STATE**

Govt. of NCT of Delhi

.....Respondent

Through: Mr. Shoaib Haider, Additional Public  
Prosecutor for Respondent-State

+ **CRL.M.C. 2666/2018 & CrI.M.A. 23906/2022**

**HC MANOJ KUMAR**

No. 787/W

S/o Shri Dinesh Prasad Sharma

R/o-B-40 Police Enclave, Chanchal Park

Nangloi, Delhi

.....Petitioner

Through: Mr. Pratap Singh, Mr. Shivank Parta  
& Mr. Navneet Sharma, Advocates

versus

**STATE**

Govt. of NCT of Delhi

.....Respondent

Through: Mr. Shoaib Haider, Additional Public  
Prosecutor for Respondent-State

+ **CRL.M.C. 2669/2018 & CrI.M.A. 9470/2018**

**CT BIJENDER**



No. 1428/W  
S/o Shri Satpal Singh  
R/o-House No. 421, Sector 23, Sonapat  
Haryana

.....Petitioner

Through: Mr. Pratap Singh, Mr. Shivank Parta  
& Mr. Navneet Sharma, Advocates

versus

**STATE**

Govt. of NCT of Delhi

.....Respondent

Through: Mr. Shoaib Haider, Additional Public  
Prosecutor for Respondent-State

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. The aforesaid three Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') have been filed by the Petitioners Subhash, HC Manoj Kumar and Ct. Bijender for quashing of summoning Order dated 06.06.2017 of learned MM, whereby, *they have been summoned* in the Chargesheet filed in FIR No.281/2013, under Sections 365/304/34 IPC, registered at PS: Ranhola.

2. **Brief facts** as narrated in the Petitions are that petitioners are police officials working in Delhi Police. Three DDs being DD No.28A at 09:52 AM, DD No.42A at 04:20 PM and DD No.59B at 07:20 PM, dated 13.09.2012 were received about Sunil (deceased/son of the complainant) being picked up by the police officials of PS: Ranhola. In DD No.59B dated 13.09.2012 was recorded at 07:20 PM, wherein, it was stated that enquiry into DD Nos. 28A and 42A has been conducted, but the deceased was not found to have been taken away by the police officials of PS: Ranhola and



complainant was making repeated calls at No.100 on advice of his Advocate.

3. Subsequently, on an Application, under Section 156(3) Cr.P.C. filed by the complainant before the learned MM, directions were given for registration of FIR and consequent to which **FIR No.281/2013**, under Sections 365/304/34 IPC was registered at PS: Ranhola. On completion of investigation, the Chargesheet was filed and all three petitioners were placed in Column No.12, as no evidence could be connected against them.

4. **Learned MM, vide Order dated 06.06.2017**, summoned the Petitioners on the basis of three DD Nos. 28A, 42A and 59B.

5. Petitioners have sought quashing of the aforesaid summoning Order on the ground that there is iota of allegations against them. On the contrary, there is sufficient evidence to show that allegations in the FIR are wrong and motivated. The independent evidence annexed with the Chargesheet has not been considered. There is no sanction under Section 197 Cr.P.C. and therefore, cognizance followed by summoning of the Petitioners who are police officials, is bad in law. It is further asserted that summoning Order is cryptic and non-speaking and has been made without considering the material on record.

6. Petitioners were granted anticipatory bail on 30.08.2017. In view of the aforesaid circumstances, prayer is made that summoning Order may be quashed.

7. **Status Report** has been filed on behalf of the State, wherein it has been stated that DD No. 15A on 14.09.2012 was received at PS: Ranhola that a dead body was floating in Najafgarh Drain near Kheri Baba Bridge.



The dead body was identified by Sh. Ram Chander (Complainant) as of his son. The scene of crime was inspected and no apparent injury was found over the dead body.

8. The Application was moved for conducting inquest proceedings under Section 176 Cr.P.C. but it was dismissed by learned MM being not maintainable.

9. The Medical Board was constituted for conducting the autopsy of the dead body of the deceased Sunil. The Post-Mortem Report opined the cause of death as '*Death is due to asphyxia as a result of ante-mortem drowning*'. No external injury was mentioned in the Post-Mortem Report.

10. The investigation did not reveal any role of the any of the Petitioners in the death of Sunil. The CDRs of the deceased, the complainant and all the Petitioners were obtained, which reflected that last location of deceased as per mobile phone at 06:26 PM on 12.09.2012 was at C-Block, Nangli Vihar Extension, Baprola, Delhi, i.e. his home.

11. The Complainant's assertions were that his son has been picked up from their home on 12.09.2012 at 10:00 PM. The Chargesheet was accordingly filed and Petitioners were kept in Column No.12, as there was no evidence found against them during investigation.

12. **Submissions heard and record perused.**

13. As per the complainant, his son had been picked up by three police officials (Petitioners) at about 10:00 PM on 12.09.2012 and taken up to the Police Station Ranhola. He made two PCR Calls on 13.09.2012, one at 09:50 AM and second at 04:20 PM, making the averment that his son had been illegally picked up by three Police Officials.



14. **Vide DD No.59B dated 13.09.2012**, enquiry was conducted by police officials in entries of earlier two DD Nos.28A and 42A and police officials went to the Police Station Ranhola, but the son of complainant was not found there. Then they came to the house of complainant, but the premises was found locked and it was found that complainant on prompting of his counsel, had been making these repeated PCR Calls and there was no basis in the allegations made by the complainant.

15. **Medical Board** was constituted for conducting the post-mortem, wherein, the *cause of death was found to be asphyxia due to ante-mortem drowning and no injury on the body of the deceased was found.*

16. Pertinently, there is no prior complaint or FIR in relation to which the son of the complainant could have been picked up by the police officials. There was no background given, which may have prompted the police officials to lift the son of the complainant. Merely by asserting that because he was a Bad Character (BC), he was picked up, may be an element of his own reasoning and suspicion, but cannot be a substitute to the evidence of the son being picked up.

17. The investigation conducted by the Police has not brought forth any circumstance or evidence, which could point towards the complicity of the Petitioners in the commission of crime. Mere assertions of the Complainant of his son having been picked up by the police officials in the night of 12.09.2012, without any other supporting evidence, cannot be considered as *prima facie* case for the summoning of the Petitioners.

18. There is not an iota of evidence found during the investigation which could give rise even to suspicion, what to say of grave suspicion, which



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could be the basis of summoning the Petitioners, who had been placed in Column No.12 in the Chargesheet. Summoning of Petitioners which has been done only on the basis of two DD Nos. 28A and 42A dated 13.09.2012, cannot be considered sufficient prima facie case.

19. Petitions are accordingly allowed and *Summoning Order dated 06.06.2017 is hereby set aside and Petitioners are discharged in the Chargesheet filed in FIR No.281/2013, under Sections 365/304/34 IPC, PS: Ranhola.*

20. Petitions along with the pending Applications are disposed of, accordingly.

**(NEENA BANSAL KRISHNA)  
JUDGE**

**MAY 28, 2025/R**