



2025:DHC:4737



\$~32

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 29th May, 2025*+ **CRL.M.C. 3965/2025, CRL.M.A. 17284/2025**
& CRL.M.A. 17375/2025

PRAKASH GOSWAMI
S/o Late Sh. B. L. Goswami
D-233, West Kidwai Nagar
New Delhi- 110023

.....Petitioner

Through: Mr. Sonal Sinha and Mr. Vikas
Yadav, Advocate

versus

STATE OF NCT OF DELHI AND ORSRespondents

Through: Mr.Utkarsh, APP for the State with

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U G D M E N T (oral)

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*)/528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed for setting aside the Order dated 15.04.2025 of Ld. Principal District & Sessions Judge *whereby* the Transfer Petition filed by the Petitioner, Prakash Goswami seeking transfer of the CA 133/2022 from the Court of Additional Sessions Judge, South, Saket to any other court has been dismissed, in TP CrI. No. 32/2024.

2. *Briefly stated*, the Petitioner, Prakash Goswami is an ex-Service man, who took premature retirement from Army on compassionate ground in



2025:DHC:4737



April, 1988. He took the premises No. F-5, Hauz Khas Enclave (rear basement) on a monthly rent of Rs.3,000/- per month from late Sh. B.R. Saxena, to start his resettlement venture in the name of *M/s Trinaini Associates*. The rent was being paid in cash and after the demise of Sh. B.R. Saxena, the rent was paid to his son Sh. Atul Saxena and his wife Ms. Geeta Saxena. At times, the Petitioner used to pay the rent to Sh. V.P. Jauhrey, brother-in-law of Sh. Atul Saxena.

3. The Petitioner, Prakash Goswami employed one Naveen Saxena as a photographer in the Firm on the recommendation of Sh. Vivek Anand whose firm *M/s Network Publications* had business dealing with the proprietorship Firm of the Petitioner, Prakash Goswami. The keys of the office were kept in safe custody in the house of Sh. Kanwal Sawhney, resident of House No. F-18 in the same block, which would normally be collected by the office boy of the Petitioner, Prakash Goswami and in his absence by the employee Sh. Naveen Saxena.

4. It is asserted that on 14.08.1992, there was commotion at the said premises and he was shocked to find that all his belongings, documents, etc., from the tenanted premises had been removed. An *FIR No. 0315/1992 dated 14.08.1992* was registered on his complaint at P.S. Hauz Khas. The Police photographer took 28 photographs of the site and his statement under Section 161 Cr.P.C. was recorded. The Police was lax in collecting evidence and filing Chargesheet. The Petitioner approached the CVC against the inaction of the Police and also filed a Criminal Complaint before Ld. MM, Patiala House Courts on 04.03.1993. The Respondents filed a *Civil Suit for Permanent Injunction* against the Petitioner in Tis Hazari Courts.



2025:DHC:4737



5. The Ld. Trial Court *vide* Order dated 09.08.2012, dismissed the Application of the Petitioner, Prakash Goswami for calling of Sh. V.P. Jauhrey as additional witness. Against that Order, ***Criminal Revision No. 360/2012*** was filed, which was disposed of by the then learned District & Sessions Judge, Delhi *vide* Order dated 09.04.2013 wherein scathing remarks were made in the manner in which the Trial Court Record was being maintained.

6. Thereafter, the Chargesheet got filed and the Charges got framed and the trial commenced. Eventually, the Respondents got acquitted in FIR on 22.10.2019 against which the Complainant has filed his Appeal on 30.05.2022.

7. Essentially, the claim of the Petitioner was that there were some documents, namely, the photographs/negatives and the statement under Section 161 Cr.P.C. of the photographer, that are missing from the record and in their absence, the matter cannot be adjudicated. He moved various Applications before the Ld. ASJ for proper pagination of the TCR and for tracing the alleged missing documents.

8. The Petitioner has asserted that Ld. ASJ without paying any heed to the multiple requests of the Petitioner has listed the matters for *Final Orders for 06.06.2025*.

9. Aggrieved by fixing of the matter and filing for pronouncement of judgment, the Petitioner filed a ***Transfer Petition bearing no. TP Crl. 32/2024 before Ld. District & Sessions Judge***, which got dismissed *vide* Order dated 15.04.2025. Aggrieved, the present Petition has been filed wherein similar grounds have been agitated of the pertinent documents not



2025:DHC:4737



being on the record and that there is undue insistence of the Ld. Trial Court to fix the matter without giving any proper opportunity to the Complainant to address Final Arguments.

10. In case the petitioner felt that some documents were not fled with the Charge Sheet, he had every opportunity to examine such witness or seek production of the Photographs during the evidence, which apparently has not been done.

11. The Petitioner has placed on record, various Orders of the Ld. ASJ, the perusal of which shows that enough opportunity has been given to the Petitioner to address arguments but he has been persistently insisting about the documents, which never found place in the original Chargesheet itself. To go on existing on some photographs which in the first instance, did not get filed with the Charge Sheet, is clearly no ground for seeking adjournment in a matter which is pending for last so many years.

12. Reference is made to the Order dated 09.04.2013 of Ld. District & Sessions Judge, wherein observations may have been made that the Trial Court Record was not properly maintained in the Ld. Trial Court, but that in itself is no reflection on there being any missing document.

13. The Ld. District and Sessions Judge, while dismissing the present Transfer Application observed that the Petitioner was not aware of the intricacies of law as he was perusing the matter in person without seeking the assistance of any lawyer. There was nothing on record to reflect any bias on the part of the Ld. ASJ or that the trial was compromised in any manner.

14. The Transfer Petition has been dismissed for cogent reasons and there is no ground to interfere in the dismissal of the Transfer Petition. However,



2025:DHC:4737



the Petitioner may file written submissions within five days before the Ld. ASJ, and if so filed, may be taken on Record and considered in the final Judgement/ Order.

15. There is no merit in the present case; the Petition is hereby dismissed along with pending Applications.

**NEENA BANSAL KRISHNA
(JUDGE)**

MAY 29, 2025

N