



2025:DHC:7600



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 01.09.2025*+ **CRL.REV.P. 78/2024 & CRL.M.A. 1842/2024****HARVEY MANN**

.....Petitioner

Through: Mr. Mandeep Kumar Sharma,
Mr. Deepak Gupta and Mr.
Nalin Kant Bhardwaj,
Advocates

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with Mr.
Vivek Malik, Mr. Archil
Arora, Advocates and Mr.
Manoj Kumar P.S. IGI
Airport, Delhi
Mr. Rajesh Ranjan, Mr. Attin
Shankar Rastogi, Mr. Archit
Chauhan, Ms. Saloni Kumar,
Ms. Kanishka Pamecha, Ms.
Himanshi Kashyap, Mr. Adil
Vasudeva, Advocates for *de-*
facto complainant (Air India)

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioner, through this revision petition, seeks to assail the order on charge dated 14.10.2023 [hereafter '*impugned order*'],



2025:DHC:7600



passed by the learned Principal District & Sessions Judge, New Delhi District, Patiala House Courts [hereafter '*Trial Court*'] in SC No. 633/2022, arising out of FIR No. 379/2022, registered at Police Station (PS) IGI Airport, Delhi, for commission of offence punishable under Section 3 of the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 [hereafter '*SUASCA Act*'] and Sections 427, 506 and 509 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. The prosecution case, in brief, is that on 15.09.2022, the complainant, Ms. 'M', Chief Cabin Crew of Air India Flight No. AI-186 (Vancouver–Delhi), along with 11 other crew members, had appeared at P.S. IGI Airport, Delhi, accompanied by passenger Harvey Mann, having Passport No. HH079268. She had lodged a written complaint alleging unruly and abusive conduct by the said passenger during the flight on 14.09.2022. It was alleged that from the very commencement of the flight, the accused had refused to occupy his allocated seat. After take-off, he had attempted to open the aircraft door (R4) on three occasions in a fit of rage. He was stated to have behaved in a persistently abusive manner towards the uniformed crew members, and had repeatedly threatened them. The accused had further proclaimed that he was there for "Shahadat" and that he would "take everyone along with him." He was also alleged to have damaged airline property, including the PTV, remote and armrest. The complaint further recorded that, by attempting to forcibly open the door, the accused had jeopardized the lives of over



220 passengers and 19 crew members on board. In accordance with the airline's Standard Operating Procedure for handling unruly passengers, he had first been orally warned and thereafter issued a written warning letter undersigned by the Pilot-in-Command. However, as he failed to cooperate, the incident was reported to the Directorate General of Civil Aviation (DGCA) and other competent authorities for further action, including his enlistment in the "No-Fly List." On the basis of these allegations, the present FIR was registered.

3. During the course of investigation, the complainant and other crew members were examined under Section 161 of the Code of Criminal Procedure, 1973 [hereafter 'Cr.P.C.'], all of whom corroborated the version narrated in the complaint and also submitted their separate statements regarding the incident. The accused was interrogated and arrested. On 16.09.2022, he was produced before the Court and remanded to judicial custody. On 17.09.2022, statements of Ms. 'M', Ms. 'R' and Ms. 'L' were recorded under Section 164 of the Cr.P.C. before the learned Magistrate. The accused was, however, granted bail on 22.09.2022.

4. During investigation, relevant records from Air India, including the General Declaration containing details of all crew members, the proforma for reporting the incident of unruly/disruptive passenger, the Passenger Notification Warning Card, and the Medical Kit Form, were collected. Upon completion of investigation, a charge-sheet was filed against the accused-petitioner for commission



2025:DHC:7600



of offence under Sections 427, 506, and 509 of IPC, Section 3 of the SUASCA Act, and Rules 22 and 23 of the Aircraft Rules, 1937. However, it was mentioned that statements of several witnesses could not be recorded, which after recording, would be filed by way of supplementary chargesheet.

5. During the proceedings in this case, the petitioner was medically examined on 28.10.2022 by the Medical Board under the Chairmanship of Dr. (Prof.) Gautam Sharma (Psychiatrist), RML Hospital, Delhi. On 18.01.2023, the learned Trial Court also ordered an inquiry under Section 329 of Cr.P.C. to ascertain whether the petitioner was of sound mind, so as to face trial. The petitioner was eventually also examined by a Medical Board constituted at All India Institute of Medical Sciences (AIIMS), Delhi on 24.03.2023. The prosecution sanction, as required under Section 188 of Cr.P.C. was accorded by the Ministry of Home Affairs on 10.05.2023. Thereafter, the matter proceeded for arguments on the point of charge.

6. By way of impugned order dated 14.10.2023, the learned Trial Court found that a prima facie case was made out against the petitioner for commission of the offence punishable under Sections 3 of the SUASCA Act, Rules 22 and 23 of the Aircraft Rules, 1937, and Sections 427, 506, and 509 of IPC.

7. The petitioner, being aggrieved by the aforesaid order, has preferred the present petition. The learned counsel appearing on his behalf contended that the arrest of the petitioner was effected on



2025:DHC:7600



15.09.2022 and he was released on bail vide order dated 22.09.2022, on a prima facie finding regarding the applicability of Section 84 of IPC. It was argued that the learned Trial Court had already examined the issue of unsoundness of mind of the petitioner through a Medical Board constituted under Section 329 of Cr.P.C., which confirmed that the petitioner was suffering from an episode of “Seizure Disorder” at the time of the alleged incident. In fact, the said issue has already been considered by the learned Trial Court in detail while passing the order dated 29.04.2023. It was further submitted that documents annexed with the charge-sheet themselves substantiate the medical condition of the petitioner. The “Performa for reporting incident of unruly/disruptive passenger” records that during the lunch service, the petitioner had gone to Lavatory 4F/1R, where he fainted in the galley area after coming out. He was thereafter administered oxygen and made to rest on the crew seat at 40DEF, which shows that he had indeed fainted on board. Another document, i.e. “Form A (First Aid Kit/Medical Kit/Universal Precaution Kit),” prepared by co-passenger doctor Ms. Jaspreet Kaur, specifically records under “remarks” that the petitioner was “most likely” experiencing a panic attack. These documents, it was argued, clearly corroborate that the petitioner had suffered from a seizure-related episode and temporary insanity at the time of the alleged occurrence. On this basis, it was contended that the incident, having arisen out of the petitioner’s medical condition, cannot amount to an offence in view of the protection available under Section 84 of IPC. Accordingly, it was



prayed that the impugned order on charge be set aside and that the petitioner be discharged.

8. The learned APP appearing for the State opposed the petition and submitted that at the stage of framing of charge, the Court is only required to examine whether a prima facie case is made out against the accused. It was argued that in the present case, the statements of the crew members clearly establish a prima facie case against the petitioner for the commission of the alleged offences. The learned APP for the State contended that there is no document on record which proves that, at the time of the incident, the accused was unaware of the nature and consequences of his acts. He also submitted that the plea under Section 84 of IPC is essentially a matter of defence, which the accused is required to establish during trial by leading cogent evidence.

9. The learned counsel appearing for the complainant, i.e. the cabin crew of Air India Flight AI-186, submitted that during the course of the flight, the petitioner had initially experienced a medical episode, and fainted in the galley area after exiting a lavatory. A nurse and a doctor on board had voluntarily attended to him, administered oxygen, confirmed his vitals as stable, and advised rest. He was accordingly accommodated in the crew rest area. However, what followed was not consistent with mere medical distress but constituted deliberate and dangerous conduct endangering the lives of passengers and crew on board. The petitioner's subsequent actions escalated to a Level 3 Unruly Passenger situation as defined under



DGCA's Civil Aviation Requirements (CAR), Section 3, Air Transport Series M, Part VI, Issue II dated 08.09.2017. His behaviour thus amounted to a serious safety and security threat. It was contended that the flight crew acted strictly in accordance with DGCA's Civil Aviation Requirements, which mandate a graduated response to disruptive behaviour. Oral as well as written warnings were issued to the petitioner by the Captain in the presence of three co-passenger witnesses. The FIR was also lodged in compliance with mandatory DGCA reporting obligations. The learned counsel further argued that the petitioner cannot claim the protection of Section 84 of IPC merely by citing a medical condition and the same is matter to be decided during the course of trial. Accordingly, it was prayed that the present petition be dismissed and the impugned order on charge be upheld as prima facie case is made out against the petitioner.

10. This Court has heard arguments addressed on behalf of the petitioner, State and the complainant, and has considered the material placed on record, including the Trial Court Record.

11. The allegations against the petitioner, in essence, are that he had allegedly displayed aggressive, abusive and highly disruptive behaviour on board Air India Flight AI-186, putting in jeopardy the safety of over 220 passengers and 19 crew members. He had allegedly not only threatened the crew members and hurled abuses at them, but also repeatedly attempted to open the aircraft door in mid-air, proclaiming that he was prepared for "shahadat" and would take everyone along with him. He had further caused damage to airline



property, including the seat PTV, remote and armrest, and had to be restrained by the crew.

12. This Court also notes that the “Performa for reporting incident of Unruly/Disruptive Passenger” prepared by the airline records in detail the sequence of events. It shows that during the lunch service, the petitioner had fainted in the galley area after coming out of Lavatory 4F1R, and was thereafter administered oxygen and made to rest on crew seats at 40DEF. However, after some time, he allegedly got up and began behaving abnormally, threatening the crew and trying to open the aircraft door (R4) thrice, declaring that he did not want to live and would kill everyone. It is further recorded that he became abusive and violent, breaking the Passenger Control Unit (PCU) and armrest of seat 40D, thereby damaging airline property. Despite repeated oral warnings and instructions, the petitioner allegedly continued his disruptive conduct. The Performa further records that the Pilot-in-Command was kept informed at all times, and in compliance with DGCA’s Civil Aviation Requirements, an oral warning was first issued, followed by a written warning issued in the presence of three co-passengers as witnesses. Despite being restrained with a restraint device, the petitioner is recorded to have broken the same. He had to be seated in seat 40E between two able-bodied passengers, namely Mr. Arshdeep Singh and Mr. Mankomal Brar, in order to restrict his movements. The crew continued to monitor him closely throughout the remainder of the flight. It is also recorded that before landing, the petitioner returned to his original



2025:DHC:7600



seat, 19H, in the economy class.

13. At this stage, this Court notes that though the main chargesheet came to be filed on 21.12.2022, setting out in detail the allegations as summarised above, the Investigating Officer had recorded therein that statements of certain crucial witnesses, despite issuance of notices to them under Section 160 of the Cr.P.C., had not been recorded. These witnesses include Mr. Mankomal Brar, Mr. Rajbir Singh Sabarawal and Mr. Arshdeep Singh, who were not only independent co-passengers but are also specifically mentioned in the airline's 'Performa for reporting incident of Unruly/Disruptive Passenger'. Their role assumes significance since the written warning card was admittedly issued to the petitioner in their presence, and further, as per the incident report, the petitioner had been seated between Mr. Brar and Mr. Singh in order to restrain his movements. Thus, they are not mere formal witnesses but material participants in the chain of events.

14. This Court also notes that when the impugned order on charge came to be passed by the learned Trial Court, no supplementary chargesheet had been filed by the I.O. bringing on record the statements of the said witnesses. Even during the course of proceedings before this Court, upon a specific query put to the I.O. as to whether the supplementary chargesheet had subsequently been filed, it was conceded that no such supplementary report has yet been filed, though the lapse of time since the filing of the main chargesheet is now close to three years.



15. It is also relevant to note that these three persons – i.e. Mr. Mankomal Brar, Mr. Rajbir Singh Sabarawal and Mr. Arshdeep Singh – have already been cited as prosecution witnesses in the main chargesheet itself, albeit without their statements being recorded. In the opinion of this Court, it would have been more prudent if the learned Trial Court had deferred the consideration on charge, till the supplementary chargesheet was filed, for the reason that the statements of these witnesses, who are independent of the airline crew and are admittedly present at the critical junctures – including at the time of issuance of the written warning card and at the stage when the petitioner was physically restrained – may have some considerable bearing on the prosecution’s case.

16. Accordingly, in the considered view of this Court, the matter needs to be remanded back to the learned Trial Court. The learned Trial Court shall call upon the Investigating Officer to explain why, despite the lapse of more than two and a half years, the supplementary chargesheet has not been filed, and in case the prosecution wishes to file it or not. Upon receipt of such supplementary material, if any, the learned Trial Court shall thereafter pass an order on charge afresh, after duly considering the additional evidence so brought on record.

17. In above terms, the petition alongwith pending application is disposed of.

18. It is however clarified that the observations made in the



2025:DHC:7600



judgment are solely for the purpose of deciding the present petition and the same shall not have any bearing on the merits of the case and the learned Trial Court shall not be influenced by the same at the time of passing the order on charge afresh.

19. The copy of this judgment be forwarded to the learned Trial Court for information and compliance.

20. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 01, 2025/ns