

**IN THE COURT OF MS. MADHU JAIN
PRINCIPAL DISTRICT & SESSIONS JUDGE
SOUTH DISTRICT: SAKET COURTS: NEW DELHI**

CR NO. 17/2025

CNR No. DLST01-000306-2025

FIR No. 375/2021

PS- Neb Sarai

State vs. Ashish & Ors.

1. **Shivani**
D/o Ram Lochan
R/o H.no. 95, E-Block, Dakshinpuri,
Ambedkar Nagar, New Delhi
2. **Sneha**
D/o Sh. Raj Kumar
R/o H.no. 52, Gali no. 2,
J Block, Sangam Vihar, New Delhi
3. **Dipti Das**
D/o Lt. Sh. Narayan Das
R/o H.no. A-243, Dakshinpuri,
Ambedkar Nagar, New Delhi
4. **Rinki**
D/o Ram Chander
R/o D-615, Mahipalpur,
New Delhi
5. **Akansha Sharma**
D/o Sh. Pramod Sharma
R/o K-162, Gali no. 19,
Near Tiranga Chowk,
Sangam Vihar, New Delhi

6. **Barkha**
D/o Sh. Sanjay,
R/o H.no. F-122, JJ Camp,
Tigri, New Delhi
7. **Santosh @ Neha**
D/o Lt. Ganesh Poddar,
R/o H.no. D-II, 315
2nd Floor, Madangiri,
Ambedkar Nagar, New Delhi
8. **Saloni**
D/o Sh. Ravi Kumar
R/o D-13/615, Mahipalpur,
New Delhi
- ...Revisionists/Accused**

Versus

State of NCT of Delhi **...Respondent**

DATE OF FILING : 14.01.2025
DATE OF ARGUMENTS : 03.02.2025
DATE OF ORDER : 17.04.2025

17.04.2025

Order :

1. By way of present revision petition, the revisionists have challenged the impugned order dated 12.03.2024 passed by learned MM-03, South District, Saket whereby Ld. Trial Court took cognizance of the offences U/s 420/120B/174A/34 IPC and summoned all the revisionists/accused persons in case FIR No. 375/2021, PS Neb Sarai, State vs. Ashish & Ors.

2. Along with the revision petition, an application seeking condonation of delay in filing the revision has been filed by the revisionists/accused persons. It is stated that there is delay of 523 days which is unintentional as the revisionist could not arrange legal counsel well within time due to financial and logistical issues. Revisionists was dealing with health issues and family obligations with required immediate attention. It is prayed that the delay may kindly be condoned.
3. This court is of the view that sufficient reasons have been explained by the revisionists to justify the delay in filing the revision petition. Moreover, technicalities should not come in the way of justice. Accordingly, application U/s 5 of Limitation Act stands allowed and the delay in the filing the revision petition stands condoned.
4. Now coming to the merits of the case. The relevant facts of the case are that on 09.09.2021, ASI Sanjeev Kumar received a secret information that one illegal call centre was running in the area of Deoli Road from where callers used to swindle persons. Thereafter, on the instructions of senior officer, HC Roshan reached the spot and informed ASI Sanjeev Kumar that some call centre was running there and in that call centre, some girls were also present. Thereafter, ASI Ramesh along with ASI Virender Rathi, HC Paramjeet, W/HC Sushila reached the spot i.e. at A-66, Deoli Road, Raju Park and thereafter, they reached near

the office of Muthoot Finance and in a gali went inside a premises and they found one boy namely Ashish. There was a cabin and a room. After searching the said premises, 12 girls were found sitting there and they had mobile phones with them and in front of them some registers were also lying. Police interrogated Ashish who informed that he used to work for a person named Bunty who was the owner of the said call centre. He told the police that the girls used to call persons on the basis of data given by Bunty. Firstly, the girls had been given training for the said work. He told the police that calling was done to various targeted persons all over the India who required job and for that a registration fees of Rs. 2,000/- had been asked from the targeted person and that person had been asked to transfer the money in the account of Bunty. After due investigation, the police found some books wherein the tactics to provide a job had been mentioned and calling points had also been mentioned. Some registers were also found wherein the details of the person and the payment received had been mentioned. Some data sheets were also found wherein the name, qualification and phone number etc. of candidates have been mentioned. Thereafter, interrogation was made from those 12 girls who told the police that some were freshers and they had been undergoing training and some of the girls had been working there for a long time. In front of their table, some papers were lying wherein the points had been mentioned

and the tactics of talking with targeted person had been mentioned that how to swindle the targeted persons with respect to providing them job and to induce them to purchase items online and thereby commit fraud with them. It has also been revealed that the data including name and mobile number of target persons had been provided to those girls by Ashish and Bunty and thereafter, they called the targeted persons and tried to persuade them by telling that they are representative of career setup services, safe and secure service and MyJobspace and on the basis of the qualification of the targeted persons, they fraud them by telling them that they will provide them job in Amazon, Banking sector, flipkart etc. in order to fraud them. It has also been revealed that when they succeed to persuade that targeted persons, thereafter, the payment had been transferred from them in the bank accounts, details of which were provided by Bunty. After investigation, the details of victims had also been traced out by the police from the registers found there and their statements had also been recorded by the police who told similarly to one another that the revisionists / accused persons along with other accused persons used to call them and demanded money in lieu to provide them jobs and when once the money gets transferred, they did not pick up their phone calls. Thereafter, the police seized the registers, documents and phones vide seizure memos and on the basis of material available, police made the revisionists along with

other persons as an accused persons in the present case and accordingly FIR No. 375/2021 under Section 420/120B/34 IPC, PS Neb Sarai has been registered. Thereafter, after completing the investigation, the police filed the chargesheet before the Trial Court on which the Trial Court vide impugned dated 25.05.2023 had taken cognizance of the offence punishable under Section 420/120B/174A/34 IPC against the revisionists along with other accused persons and accordingly summoned them. Aggrieved by the same, the revisionists have preferred the present revision petition.

5. The impugned order dated 25.05.2023 is reproduced below:-

“Present : Sh. Naresh Chaudhary, Ld. APP for the State.

IO/SI Sunil Kumar in person.

File perused.

I have gone through the charge sheet, annexed documents and the statement of witnesses recorded U/sec. 161 Cr.P.C. I take cognizance of the offence U/s 420/120B/174A/34 IPC.

Issue summons to accused persons and notice to their surety through concerned IO for 26.09.2023.”

6. Perusal of the aforesaid impugned order dated 25.05.2023 reveals that Ld. MM has passed the aforesaid order in a casual and non-speaking manner without defining the role of the revisionists/accused persons and explaining the basis of invoking the relevant sections for which cognizance has been taken by him. It may be mentioned that no reasons whatsoever has been given by learned MM nor he has discussed the provisions of Sections 420/120B/174A/34

IPC. It is a well settled principle of law that at the time of summoning, the Court is only required to see prima facie case. Further, Hon'ble High Court in ***Omlata & Ors. Vs. State of N.C.T. of Delhi & Anr., Crl. M.C. No.6195/2023 dated 28.08.2023*** has held as under :

"11. At the time of taking cognizance a Magistrate is required to judicially apply the mind and be satisfied on the basis of the facts what are borne out from the statement of the complainant as made in the complaint or what are borne out from the report of the Investigating Officer involved or what are the surrounding facts and circumstances based on the prima facie documents and materials in existence or what the contents of the FIR are. The Magistrate is to be aware of the situation] position as it is at the time of taking cognizance because what is before him are mere allegations which are nothing but a bundle of facts made by a complainant at the preliminary stage which are yet to be tested.

12. In effect, it is the satisfaction of the magistrate which plays a predominant role while taking cognizance coupled with the fact that there are enough materials to convince him for taking such cognizance. The order passed by the Magistrate taking cognizance has to be a speaking one justifying the steps taken "by him which convinced him of taking cognizance. Such order has to be expressive and reflective of the" bare minimum reasons. The order taking such cognizance ought to reflect that the Magistrate is indeed aware of and has knowledge of the facts involved. The said order should sound convincing.

13. Any order by which the Magistrate is taking cognizance out not to be a routine exercise which is a mere knee-jerk reaction which is automated. If there is such an order taking cognizance then the same would be perfunctory and not reflective of the Magistrate having applied its mind. The Magistrate cannot be mechanical in his approach. More so, whence at the end of the day the Magistrate is setting into motion the judicial machinery against the

alleged accused person which inevitably involve their personal liberty and freedom. Therefore, the Magistrate must necessarily exercise due 'care, caution and precaution while taking all the relevant factor(s) into consideration.' However, it in no way means that the Magistrate has to give detailed reasons while taking cognizance as the Magistrate, while taking cognizance, has to only ensure that he does not pass a blanket order without expressing his opinion and judicial mind.

*14. This Court finds able support in **Sanjit Bakshi vs State of NCT of Delhi & Ors.** (Crl.M.C. 4177/2019), wherein a co-ordinate bench of this Court has recently, while taking note of the position of law laid down by the Hon'ble Court in various pronouncements, held that cognizance implies application of judicial mind' by the Magistrate to the facts as stated in a complaint or a police report or upon information received from any person that an offence has been committed and-further that. He further submits that the learned MM while issuing summons to the petitioners failed to consider the fact that the present complaint against the petitioners has been filed by the 'respondent no.2 after almost 12 years and therefore, in view of the limitation period prescribed under Section 468 of the CrPC, the learned MM should not have taken the cognizance of the same. Even otherwise, he submits, that the said cognizance was taken in a cryptic way and without application of judicial mind'.*

In view of the settled principle of law and the facts and circumstances, **the impugned order dated 25.05.2023 passed by learned MM-03, South District, Saket is set aside. The matter is remanded back to learned MM-03, South District, Saket with directions to pass a detailed and speaking order after considering the facts on record. With these observations, the revision petition stands disposed of.**

Revisionists are directed to appear before the learned Trial Court on **28.04.2025**.

A copy of this order alongwith Trial Court record be sent back.

Revision file be consigned to Record room.

**Announced in open Court
on 17th April, 2025**

(MADHU JAIN)
Principal District & Sessions Judge (South)
Saket Courts, New Delhi

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