

**IN THE COURT OF MR. SANJAY GARG-I
PRINCIPAL DISTRICT & SESSIONS JUDGE,
NEW DELHI DISTRICT,
PATIALA HOUSE COURTS, NEW DELHI**

**Criminal Revision No. 690/2022
CNR No. DLND01-011054-2022**

State (Govt. of NCT of Delhi)
Through Public Prosecutor

..... Petitioner

Versus

Sh. Devender Kumar
S/o Sh. Dilbagh Singh
Village Asandha
Tehsil Bahadurgarh
District Jhajjar, Haryana

..... Respondent

Date of institution	:	17.12.2022
Date of hearing arguments	:	18.09.2023
Date of order	:	25.09.2023

Appearances:

Sh. Ravindra Kumar, Ld. Addl. PP for the State/Petitioner.
Sh. Davinder Kumar, Ld. Counsel for respondent/accused.

ORDER:

1. The order impugned vide this petition is dated 28.10.2022 vide which proceedings against petitioner were closed in view of the orders of the Hon'ble High Court dated 000 in FIR No.486/2014, PS Vasant Kunj (North).

2.000 Brief facts of the case are that on 28.06.2014, a quarrel took place at Keya Bar and Restaurant, DLF Mall, Vasant Kunj. Out of this quarrel, two FIRs i.e. 485 and 486 emanated. Thereafter, both the parties settled their dispute and approached the Hon'ble High Court for quashing of the FIRs. The Hon'ble

High Court vide order dated 29.05.2015 quashed both the FIRs and proceedings emanating therefrom qua the petitioners. Admittedly, the present petitioner was not one of the petitioners before the Hon'ble High Court.

3. As per the chargesheet filed in October, 2016, the police only filed chargesheet against the three accused, who were not the petitioners before the Hon'ble High Court, including this petitioner. Against this petitioner and other two co accused, chargesheet was filed under Sections 147, 148, 149, 150, 323, 324/174A IPC. This petitioner was also declared Proclaimed Offender and due to this reason, chargesheet under Section 174A IPC was also filed against him.

4. The relevant point to be considered is if the order dated 29.05.2015 of the Hon'ble High Court quashes both the FIRs i.e. 485/2014 and 486/2014, PS Vasant Kunj (North) and all the proceedings emanating therefrom, the Ld. Counsel for the State submits that the order is clear and specific that FIR No.486/2014 pertaining to this case was only quashed qua the petitioners. It is stated that this petitioner was Proclaimed Offender and was not one of the petitioners in the quashing petition before the Hon'ble High Court hence, proceedings against him were wrongly closed by the Ld. Trial Court. The Ld. Addl. P.P. for the State has further stated that one of the accused in this case i.e. Kamal Singh subsequently approached the Hon'ble High Court and vide order dated 24.05.2017 all the proceedings against him were quashed. On the other hand, Ld. Counsel for the respondent/accused has submitted that as this

FIR as well as cross FIR got quashed by the orders of the Hon'ble High Court dated 29.05.2015, the Ld. Trial Court has rightly closed the case against the petitioner.

5. The Hon'ble High Court vide its order dated 29.05.2015 has specifically observed that FIR No.485/2014 and 486/2014 both registered at PS Vasant Kunj, New Delhi and proceedings emanating therefrom shall stand quashed qua petitioners. Hon'ble High Court in its subsequent order dated 24.05.2017 in petition filed by co accused Kamal Singh has also quashed the proceedings against him in FIR No.486/2014. If vide order dated 29.05.2015, both the FIRs were quashed against all the accused persons, petitioners or non-petitioners, there was no need for co accused Kamal Singh to have approached the Hon'ble High Court for quashing of the FIR against him.

6. Moreover, partial quashing or part quashing of FIR is permissible depending upon the facts of the particular case. Reliance is placed upon **Sunil Tomar Vs. State of NCT of Delhi and Another** (2022) SCC Online DEL 1027. Relevant para No. 9 and 10, for better appreciation of facts are reproduced as follows :

“9. Partial quashing or part quashing of FIR only qua the petitioner-accused with whom the complainant has compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner-accused cannot be allowed to suffer based on a complaint filed by the respondent, when subsequently, all disputes have been settled between the parties. Reliance can be placed on Poonam

Khanna V. State.

10. In Lovely Salhotra v. State (NCT of Delhi), in paras 4 and 7, it is observed and held as under :

“4. We have taken into account the fact of the matter in question as it appears to us that no cognizable offence is made out against the appellant herein. The High Court was wrong in holding that the FIR cannot quashed in part and it ought to have appreciated the fact that the appellants herein cannot be allowed to suffer on the basis of the complaint filed by Respondent 2 herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused 2, 3, 4 and 6 prima facie.

7. Accordingly, we set aside the order of the High Court and quash the FIR qua the appellants herein.”

7. In view of the above discussed reasons and circumstances, the orders of the Hon'ble High Court dated 29.05.2015 and 24.05.2017, quashes FIR No.486/2014 against the petitioners only. Since this petitioner was not one of the petitioners in the quashing proceedings and moreover, he being Proclaimed Offender, chargesheet was filed against him under Section 174A IPC, the Ld. Trial Court fell in error by canceling proceedings against the petitioner. The impugned order is thereby set aside. The petition is thereby accepted. The petitioner is directed to appear before the Ld. Trial Court on **05.10.2023**. The Ld. Trial Court will proceed ahead with the trial against this

petitioner as per law.

8. Trial Court record along-with copy of order be sent back forthwith. This file of the Criminal Revision be consigned to the Record Room.

Announced in the open Court **(Sanjay Garg-I)**
on 25th September, 2023 Principal District & Sessions Judge
New Delhi District,
Patiala House Courts, New Delhi (mc)