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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1192/2025 & CRL.M.A. 5353/2025**

ANUSHEH HUSSAIN

.....Petitioner

Through: Ms. Nandita Rao, Senior Advocate,
Mr. Abhinav Sekari and Ms. Shalanki
Prasad, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Digam Singh Dagar, APP for the
State with SI Sombir, P.S.:
Safdarjung Enclave.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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19.02.2025

CRL.M.A. 5354/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 1192/2025

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks quashing of case FIR No. 42/2024 dated 10.02.2024 registered under sections 289/323/341/337 of the Indian Penal Code, 1860 ('IPC') at P.S.: Safdarjung Enclave, Delhi and of chargesheet dated 15.04.2024 filed pursuant thereto and all the proceedings arising therefrom.



2. At the outset, on oral prayer of Ms. Nandita Rao, learned senior counsel appearing for the petitioner, the complainant/Guransh Singh (through his mother), is impleaded as party-respondent No. 2 in the matter.
3. Let amended memo of parties be filed within 07 days.
4. Ms. Rao submits, that as would be seen from a bare reading of the subject FIR as well as the chargesheet filed in the matter, the case arises from certain nuisance created by young children of the neighbourhood; and the allegation is that the petitioner used to prevent the children from playing in the neighbourhood park and used to feed stray dogs, one of whom bit the complainant. Furthermore, it is alleged that the petitioner had also physically assaulted the complainant.
5. Learned senior counsel draws attention to the statement of the complainant, a 13-year-old boy, recorded on 12.02.2024 under section 164 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'). Senior counsel submits, that in that statement the boy admits that he was the one who had approached the petitioner (who he calls 'aunty') on 10.02.2024 and had got into an argument as to why they were not allowed to play in the park. It is submitted, that though the boy alleges that the petitioner slapped him and hit him with an iron rod on his right hand and that he lost consciousness, the complainant's MLC dated 10.02.2024 conducted at the VMMC & Safdarjung Hospital, New Delhi does not show any such injury.
6. Learned senior counsel submits that the allegation that the petitioner "... ..got 2-3 of those dogs to start biting me" recorded in the



statement under section 164 Cr.P.C. is also *ex-facie* unbelievable since the dogs in question are stray dogs, who the petitioner only feeds and gets inoculated as a gesture of public service. It is submitted that the MLC records the nature of the injury sustained by the boy as ‘simple’; and the only treatment given to him was to administer anti-tetanus and anti-rabies vaccinations. Senior counsel further submits, that the stray dog bit the boy since he had thrown stones at the dog

7. Ms. Rao submits, that by reason of the nuisance that the complainant alongwith other children used to cause in and around the locality, the petitioner had made a complaint dated 13.02.2024 to the DCP, South-West, Delhi, since the local police were not taking cognizance of her complaint, wherein she has explained the circumstances which led the stray dogs to bite the boy. It is further submitted, that no action has been taken on the petitioner’s complaint so far.
8. The matter is stated to be listed next before the learned trial court for framing of charges on 28.04.2025.
9. On a *prima-facie* view of the matter, issue notice.
10. Mr. Digam Singh Dagar, learned APP appears for the State on advance copy; accepts notice; and seeks time to file status report.
11. Upon the petitioner taking requisite steps, let notice be sent to the newly impleaded respondent No. 2 by all permissible modes, returnable for the next date.
12. Let the notice indicate that reply/status report to the petition be filed within 06 weeks of service; response/rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.



13. In the opinion of this court, on a first blush reading of the chargesheet, and in particular in view of the statement of the complainant recorded under section 164 Cr.P.C., the ingredients of the offence under sections 289/323/337/341 IPC are not made-out. The order taking cognizance also does not disclose any application of mind or appreciation of the material on record.
14. Considering the overall circumstances of the case and the fact that order dated 12.08.2024, whereby the learned Judicial Magistrate First Class, Saket, New Delhi has taken cognizance of the offence, does not contain any discussion as to the material that may have come on record to make-out the ingredients of the offences under sections 289/323/337/341 IPC, further proceedings before the learned JMFC in CR Cases No. 2785/2024 *shall remain stayed*, till the next date of hearing before this court.
15. Re-notify on 13th May 2025.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 19, 2025

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