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

+ CRL.M.C. 2123/2026
SANDEEP AFONSO

.....Petitioner

Through: Mr. Abhishek Saket, Mr. Amit Tiwari, Mr. Chaitanya Puri, Ms. Shahana Farah, Mr. Manish Madhukar, Ms. Reya Paul, Ms. Nidhi Singh and Ms. Amruta Padhi, Advocates.

versus

GOVT. OF NCT OF DELHI & ANR.

.....Respondent

Through: Mr. Aashneet Singh, APP
SI Manoj Kumar.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 23.03.2026

CRL.M.A. 8752/2026 & CRL.M.A. 8753/2026 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 2123/2026 & CRL.M.A. 8751/2026 (stay)

1. Issue notice. Mr. Aashneet Singh, learned Additional Public Prosecutor, accepts notice on behalf of the State. Notice to the complainant/respondent No.2 be served through the Investigating Officer.
2. The petitioner, who is the Station Manager of Air Canada, Delhi Station, assails the order dated 27.10.2025 passed by the learned Judicial Magistrate, whereby cognizance has been taken on a Kalandra dated 23.10.2025 filed by the officer investigating FIR No. 137/2017, dated 20.04.2017, registered at Police Station I.G.I. Airport, under Sections 479



and 409 of the Indian Penal Code, 1860 [“IPC”], and the petitioner has been summoned pursuant thereto.

3. The said FIR was registered at the instance of respondent No. 2 in relation to alleged damage to, and theft from, his baggage while travelling on a flight, being Flight No. AC 071 (Air Canada), from New Delhi to Toronto on 14.04.2017. Upon completion of the initial investigation, a report came to be filed before the Trial Court; however, the complainant thereafter preferred a protest petition, in consequence of which the Trial Court directed further investigation.

4. Mr. Abhishek Saket, learned counsel for the petitioner, submits that no notice was issued to, nor any inquiry conducted with, Air Canada during the initial stage of investigation. It is further submitted that notices were subsequently issued, beginning with a notice dated 02.12.2024, seeking certain information from Air Canada. The said notices were duly responded to by Air Canada, which, *inter alia*, stated that no complaint had been lodged with it in Delhi in respect of the subject matter of the FIR, and that it was unable to furnish information regarding the ground handlers and agents operating in the year 2017.

5. However, Air Canada referred the Investigating Officer to its ground handler, namely Celebi, stating that it may be in a position to furnish further information. It was also stated that Air Canada did not have the relevant video footage in its possession.

6. The last notice issued by respondent No. 1 to Air Canada is dated 06.08.2025, whereby five specific queries were put to the airline, which are as follows:

“1. Provide the names, addresses and phone numbers of the staff



deployed for handling of said baggage.

2. Provide the details of the ground staff who asked the passenger to hand over his hand bag for check-in when already clearance was given to the passenger to board the flight.

3. Provide the rules of the Airlines for handling the hand baggage of the passengers.

4. Whether any inquiry was conducted by the Air Canada into the complaint No. YYZAC25456 of the passenger. If yes, provide the findings of enquiry including CCTV footage.

5. Depute an officer who can assist the investigating officer for identification of the staff seen in the CCTV footage.”

7. Air Canada replied to the State on 19.09.2025, stating as follows:

“We write in response to the request received.

Air Canada is unable to retrieve information regarding the ground handlers/agents given the absence of records dating back to 2017, especially regarding baggage/ground handler records.

Generally, the passenger(s) handbag (carry-on) stays with the passenger(s) from when they enter the airport up until they enter the aircraft (that includes passing the bag through security). That being said, at times and under certain circumstances, clients will be asked to put their carry-ons below the aircraft if there is no more room in the overhead bins. The passenger(s) check-in luggage will follow a different process. These hags will be given to the check-in agent(s) who will then add bag tags to each bag and then the process of security and putting the bags into the aircraft will be done internally by the employees. That being said, in DEL, the protocol back in 2017 was that the bags were collected at the gate and/or from the aircraft to be loaded in the bulk hold. This process was specific to cabin bags that were collected at the gate or from the aircraft in 2017 due to space restriction on board and had to be loaded in the bulk hold.

A World Tracer file (YYZAC25456) was opened as a Damaged Property Report by the airport agent of Air Canada on July 14, 2017. This is also used by airports agents to report pilferage/missing items. This report was created upon arrival in Toronto, Canada (YYZ). According to the record, the passenger was referred to Claims, however, there was no sign that a claim was ever created by the passenger within the 7- day timeframe.

Air Canada does not have the sought video footage in its possession. However, Air Canada will remain available in case it could assist with the identification process.”



8. Mr. Saket submits that, despite Air Canada having clearly stated that it would remain available to assist in the identification process, including identifying the staff seen in the footage in coordination with the Investigating Officer, no further notice was issued requiring it to do so, and instead a Kalandra was filed before the Court. It is further contended that there has been no intentional withholding of information or lack of cooperation on the part of Air Canada, which continues to remain willing to extend all necessary assistance as and when required.

9. Having heard learned counsel for the parties, I am of the view that the matter requires further consideration. The incident pertains to the year 2017, whereas the first inquiry was made with Air Canada only in the year 2024. It is noted that Air Canada has responded to the notices issued by the Investigating Officer and has expressed its willingness to cooperate, subject to the information available with it. It has also been clarified that ground handling at the relevant time was undertaken by another agency, namely Celebi, and the Investigating Officer was requested to approach the said agency for further information; however, Mr. Singh, on instructions from the Investigating Officer, submits that no such steps were taken.

10. The Investigating Officer also states that no notice was issued to Air Canada to assist in the identification process, as had been offered in its letter dated 19.09.2025.

11. Having regard to the aforesaid *prima facie* circumstances, further proceedings pursuant to the impugned order dated 27.10.2025 shall remain stayed until the next date of hearing.

12. Status report be filed before the next date of hearing. Reply also



may be filed before the next date of hearing.

13. List on 10.07.2026.

PRATEEK JALAN, J

MARCH 23, 2026

SS/SD/