



\$~64

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

+ **CRL.M.C. 4535/2025, CRL.M.A. 19763/2025**

VIPHUL ARORA

.....Petitioner

Through: Mr. Tanveer Ahmed Mir, Senior Advocate with Mr. Ravinder Singh, Ms. Raveesha Gupta, Mr. Ritvik Bhardwaj and Mr. Chandra Shekhar, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Digam Singh Dagar, APP for the State.
SI Arvind Kumar, PS Greater Kailash.
Mr. Shree Prakash Sinha, Mr. Rakesh Mishra and Mr. Rishabh Kumar, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

%

11.07.2025

1. This hearing has been done through hybrid mode.

CRL.M.A. 19764/2025(exemption)

2. Allowed, subject to all just exceptions. This application is disposed of.

CRL.M.C. 4535/2025 & CRL.M.A. 19763/2025

3. The present petition under Section 528 of the BNSS (Section 482 of the CrPC) seeks following prayers:-

“i. Pass necessary orders and directions thereby striking off or aside the direction passed in the para 6 of the impugned order dated 04.07.2025 whereby it has been held that BNSS shall not apply to the complaint proceedings in Ct. Case No. No. 12204 of 2019 pending before the Ld. JMFC, South-East, Saket Courts;



ii. Pass necessary any other orders and directions as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case."

4. Learned Senior Counsel appearing on behalf of the petitioner submits that latter was summoned on a complaint case filed by respondent no.2 by learned JMFC-04 *vide* order dated 16.08.2024. It is pointed out that the said order was challenged by the present petitioner by way of Cr. Rev. No. 61/2025 and *vide* impugned order dated 04.07.2025 learned ASJ set aside the aforesaid order giving the finding that the same was a non-speaking order and remanded the matter back to learned JMFC to pass appropriate orders after hearing the arguments in accordance with law.

5. The grievance of the petitioner is that at the time of disposing of the revision petition learned ASJ has given a finding to the effect that the provisions of Section 223 of the BNSS as per which no cognizance can be taken without giving the accused an opportunity of being heard will not be applicable in the present complaint case in view of the provisions of Section 531 of the BNSS. Learned ASJ was of the opinion that Section 531(1) (2a) of the BNSS provides that if immediately before the date on which this BNSS comes into force, there is any inquiry or investigation pending, then, same shall be disposed of in accordance with the provisions of the CrPC.

6. Learned Senior Counsel appearing on behalf of the petitioner submits that the proviso to Section 223 of the BNSS is beneficial in nature and therefore, Section 531 of the BNSS has to be interpreted in a manner so that benefit should be given to the petitioner. It is submitted that the distinction lies, at the stage when the cognizance is taken, inasmuch as by the time cognizance in the present case was taken by the learned Trial Court, BNSS



had been notified and therefore, the benefit of the aforesaid proviso should be given to the petitioner.

7. Learned counsel appearing on behalf of respondent no. 2 submits that the language of Section 531 of the BNSS is clear to the effect that the pending inquiry would be disposed of in terms of the CrPC before the notification of the BNSS.

8. Issue notice.

9. Learned APP for the State accepts notice and seeks time to file a status report/response. Let the same be filed before the next date of hearing.

10. Learned counsel appearing on behalf of respondent no. 2 accepts notice and seeks time to file a response to the present petition. Let the same be filed before the next date of hearing.

11. List on 25.09.2025.

12. In the meantime, learned counsel appearing on behalf of respondent no. 2 submits that he will seek an adjournment before the learned Trial Court with respect to the arguments on summoning *qua* the present petitioner

13. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.

AMIT SHARMA, J

JULY 11, 2025/sn/yg