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

+ CRL.REV.P. 325/2009 & CRL.M.A. 6094/2009

SANJAY SINGH

.....Petitioner

Through: Mr. Lalan Chaudhary and Mr.
Nishant Anshul, Advocates.

versus

STATE GOVT. OF N.C.T. OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State.

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+ CRL.REV.P. 326/2009 & CRL.M.A. 6096/2009

LOKENDER PAL

.....Petitioner

Through: Mr. Pradeep Kumar Arya, Mr. Raj
Karan Sharma, Mr. Aditya Kumar
Yadav, Mr. Gaurav Chaudhry, Mr.
Priyanshu Malik, Mr. Vaibhav
Chaudhry, Mrs Akshika Chaudhry,
Advs.

versus

STATE GOVT. OF N.C.T. OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV

ORDER

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22.07.2026



1. The present revision petitions are assailing the order dated 15.05.2009 passed by the Additional Sessions Judge, whereby, charges were framed against the petitioners for the offence punishable under Section 223 of the Indian Penal Code, 1860 [**“IPC”**].

2. The revision petitions came up for hearing on 25.05.2009 and the Court while issuing notice, had stayed the trial. The Supreme Court in **Vijay Kumar and Ors. v. State of Rajasthan**¹ has issued various directions for expeditious disposal of the cases where the trial has been stayed. Pursuant thereto, the Judge-In-Charge (Criminal) has issued certain directions, which are extracted as under:

“a. On the day before the case is listed before the Court, Court Masters are directed to bring it to the notice of Hon'ble Judge, that the case falls within this category.

b. In those cases where the next date of hearing is presently fixed after 31.07.2026, the matters be listed before the concerned Hon'ble Judge "for directions" in the "Supplementary List", from 06.07.2026 onwards. Prior notice be given by the Registry to the concerned counsel, so that Court may consider whether it is possible to advance the date of hearing. A maximum of 5 matters be listed in this category on any day.

c. Copies of the aforesaid judgment and these directions, if approved by Hon'ble the Chief Justice, be circulated to all the Hon'ble Judges, holding the Single Benches on the Criminal side.”

3. These petitions were called out for hearing on 06.07.2026, and the parties were sensitized regarding early disposal of these cases, it was made clear that no adjournment shall be granted on request of any of the parties. Thereafter, hearing was scheduled on 20.07.2026. The same was adjourned for today. Both the counsels have been heard.

4. The facts of the cases indicate that on 15.07.2004, the

¹ SLP (Crl.) 773/2026 judgement dated 08.01.2026



petitioners, Sanjay Singh, a Constable, and Lokender Pal, a Head Constable, were deputed to escort an undertrial prisoner, Jitender @ Kalle, who was facing trial in a murder case, from the Central Jail to AIIMS Hospital for medical treatment. It is alleged that while at the hospital, the petitioners consumed a bottle of Pepsi allegedly handed over by a relative of the said undertrial. Consequently, both the petitioners became unconscious, enabling the undertrial prisoner to escape from lawful custody.

5. Allegations against the accused fall within Section 223 of the IPC, which is extracted as under:

“223. Escape from confinement or custody negligently suffered by public servant.—Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence 6 [or lawfully committed to custody], negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”

6. The sole ground raised by the petitioners to challenge the order of framing of charges is that they were on their official duty. It is contended that Section 140 of the Delhi Police Act, 1978 [**“DP Act”**] bars prosecution of a police officer for acts done or purported to be done in the discharge of official duty without prior sanction, and therefore, the prosecution against the petitioners is not maintainable in the absence of such sanction.

7. Learned counsel also places reliance on the decision of **Kiran Bedi v. N.C.T. of Delhi and Another**² and the decision of the Supreme Court in the case of **Ved Pal Singh Rana v. The State and Ors.**³, **SI Manoj Pant v. State of Delhi**⁴ and **Prof. Sumer Chand v. Union of India**⁵.

² 2001 (1) JCC Delhi 53.

³ 2004 V AD (DELHI) 567

⁴ 2008 Cri LJ 1031 (Del).



8. This Court has considered the submissions advanced on behalf of the petitioners and has perused the material placed on record.

9. Section 140 of the DP Act is extracted as under:

“140. Bar to suits and prosecutions.—(1) In any case of alleged offence by a police officer or other person, or of a wrong alleged to have been done by such police officer or other person, by any act done under colour of duty or authority or in excess of any such duty or authority, or wherein it shall appear to the court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained and if entertained shall be dismissed if it is instituted, more than three months after the date of the act complained of:

Provided that any such prosecution against a police officer or other person may be entertained by the court, if instituted with the previous sanction of the Administrator, within one year from the date of the offence.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall give to the alleged wrongdoer not less than one month's notice of the intended suit with sufficient description of the wrong complained of, and if no such notice has been given before the institution of the suit, it shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state what tender or amends, if any, has been made by the defendant and a copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.”

10. A plain reading of Section 140 of the DP Act shows that where the alleged offence or wrong is attributable to an act done by a police officer under the colour of duty or authority, or in excess of such duty or authority, the prosecution must ordinarily be instituted within three months from the date of the act complained of. If instituted beyond three months, it may nevertheless be entertained within one year from the date of the offence, provided the previous sanction of the Administrator has been obtained. Thus, the protection under Section 140 is attracted only when the act complained of bears a reasonable nexus with the discharge or purported

⁵ (1994) 1 SCC 64.



discharge of official duty.

11. The language of Section 140 of the DP Act is clear and unambiguous. The statutory bar contained therein is attracted only where the prosecution, in respect of an act done under the colour of duty or authority, is instituted beyond a period of three months from the date of the alleged act. In the present case, the alleged incident occurred on 15.07.2004, whereas the chargesheet was filed on 23.09.2004, i.e., within the prescribed period of three months. Consequently, the requirement of obtaining previous sanction under the proviso to Section 140 does not arise.

12. In view of the aforesaid, this Court finds that Section 140 of the DP Act has no application to the present case.

13. The judgments relied upon by the petitioners pertain to the interpretation of Section 197 of the Code of Criminal Procedure, 1973 [“Cr.P.C.”], which operates in a different field from Section 140 of the Delhi Police Act, 1978. While Section 197 Cr.P.C. grants protection to public servants against prosecution for acts done in the discharge of official duty, Section 140 of the DP Act is a special provision governing prosecution of police officers for acts done under colour of duty and prescribes its own limitation and sanction requirements. The distinction between the two provisions has also been recognised by the Supreme Court in **Prof. Sumer Chand v. Union of India**.⁶ Section 197 Cr.P.C. and Section 140 of the DP Act operate in distinct fields and the principles governing one cannot be mechanically imported into the other.

14. In view of the aforesaid, this Court finds no ground to interfere with the order framing charges.



15. Accordingly, the petitions are dismissed.

PURUSHAINDRA KUMAR KAURAV, J

JULY 22, 2026/P/ss

⁶ (1994) 1 SCC 64.