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

CNR No. DLHC011058292024

+ **W.P.(CRL) 441/2025 and CRL.M.A. 3986/2025**

RAVI KUMAR

.....Petitioner

Through: Mr. Harsh Vardhan Sharma,
Mr. Neeraj Kumar, Mr. Amarnath and
Mr. Pankaj, Advocates.

versus

STATE OF NCT DELHI & ANR.

.....Respondents

Through: Mr. Yasir Rauf Ansari, ASC for State
with SI Sunil Gahlot, PS S.J. Enclave.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **31.08.2026**

The matter was listed for 27.08.2026 and is taken up today as 27.08.2026 was declared a holiday.

1. By way of the present petition, the petitioner seeks to challenge the order dated 25.05.2019 passed by learned ASJ, South, Saket Court, New Delhi in Criminal Appeal No.297/2017 solely on the ground that his plea bargaining was accepted *vide* order on sentence dated 16.01.2017 and the same was acted upon thereafter. Without there being any challenge to the said order, the learned ASJ has committed an illegality in passing the order on 25.05.2019 directing the present petitioner to appear before the concerned Court for further sentencing.
2. It is the contention of learned counsel for petitioner that such a



procedure is unknown to criminal law. The learned ASJ erred in interfering with the order dated 16.01.2017 accepting the petitioner's plea bargaining, which had remained unchallenged and had already been fully acted upon. This order has been passed in an appeal passed by the State against the acquittal of the co-accused.

3. Submissions made on behalf of the petitioner are vehemently opposed by learned ASC for State, who contends that under statute, the concerned Court ought not to have accepted the plea bargaining merely on deposition of fine of Rs.5,000/- and sentence of 10 days. According to him, minimum sentence should have been 3 months.

4. I have considered the submissions made by learned counsel for the parties and perused the record.

5. The order dated 16.01.2017 passed by the learned MM-06, (South), Saket Court, New Delhi clearly indicate that the petitioner after conviction was sentenced to fine of Rs.5,000/- for the offence under Section 33 of Delhi Excise Act and was awarded Simple Imprisonment of 10 days. The said order is extracted as under:-

“ORDER ON SENTENCE

Heard on the point of sentence.

It is stated that the convict belongs to a poor family and is not a previous convict for any offence.

Keeping in view the facts and circumstances of the present matter, the convict Ravi Kumar is sentenced to fine of Rs'5,000/- for the offence U/S 33 Delhi Excise Act, ID SI for 10 days. Fine deposited by the convict.

A copy of the Judgment and of this order, be given to the convict Ravi Kumar free of cost.

File be sent to the concerned Court on 19.01.2017 for appropriate orders.

Ahlmad is directed to send the file complete in all respects well before time.”

6. It is undisputed that the said order has been fully implemented. The



petitioner has deposited a sum of Rs.5,000/- towards fine and has also undergone SI for 10 days.

7. The facts, however, would indicate that *vide* the impugned order dated 25.05.2019, when the Appellate Court was hearing an appeal at the instance of the State against the co-accused namely, Brijesh Lalwani, who was acquitted, the impugned direction came to be passed. The order dated 25.05.2019 is extracted as under:-

“...Ld. Counsel for accused/noticee submits that he pleaded guilty on the assurance that he would be let off on the period already undergone. Ld. Counsel further submits that in respect of the other accused Brijesh Lalwani, matter has been remanded by this Court to Learned Trial Court to examine the MH(J(M) and to decide the matter afresh. The next date before Learned Trial Court qua Brijesh Lalwani is 09.07.2019. The accused pleaded guilty during plea bargaining. Therefore, this Court cannot entertain the plea that he pleaded guilty on certain assurance regarding the sentence. Sentence had to be imposed as per law laid down by Hon'ble Supreme Court in Virsa Singh vs Department of Customs (2015) 77 SCC 386. If the accused/noticee Ravi Kumar has any grievance regarding the plea bargaining proceedings, he should seek appropriate remedy under the law. At present, matter has to be remanded to Learned Trial Court qua him for passing appropriate sentence. The accused Ravi Kumar is directed to appear before Learned Trial Court on 09.07.'2019. The sentence imposed on the accused Ravi Kumar in FIR No. 292/2011 by the plea-bargaining Court vide order dated 16.01.2017 is set aside. Learned Trial Court is directed to hear the accused Ravi Kumar afresh on the point of sentence and pass appropriate order in accordance with law. Copy of this order and copy of order dated 23.03.2019 be sent to Learned Trial Court. Appeal file be consigned to record mom. Copy of this order be given dasti to Ld. Counsel for accused.”

8. In ***State of Punjab v. Davinder Pal Singh Bhullar & Ors.***¹, the Supreme Court, while considering the bar against review or alteration of a criminal judgment, held that once a matter is finally disposed of by a Court,

¹ (2011) 14 SCC 770



the Court becomes *functus officio* and cannot entertain a fresh prayer for relief unless the earlier order is set aside by a Court of competent jurisdiction in accordance with law.

9. It is, thus, seen that, in the absence of any challenge to the order dated 16.01.2017, the learned ASJ has gravely erred in interfering with the order on sentence of the present petitioner. The same was wholly uncalled for.

10. In view of the aforesaid, the impugned order would not sustain and the same is, therefore, set aside *qua* the present petitioner. The petition stands disposed of.

11. Pending application also stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 31, 2026

Nc