



2026:DHC:4593



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

% *Judgment reserved on : 20.02.2026*  
Judgment pronounced on : 22.05.2026  
+ **CRL.REV.P. 608/2014 & CRL.M.A. 15236/2014**

**VINAY KANODIA** .....Petitioner

versus

**SANDEEP THAPLIYAL & ORS** ..... Respondents  
+ **CRL.REV.P. 609/2014 & CRL.M.A. 15241/2014**

**VINAY KANODIA** .....Petitioner

versus

**DIRECORATE GENERAL OF CENTRAL  
EXCISE INTELLIGENCE** ..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Rajesh Anand, Ms. Harleen Kaur, Mr. Eshaan Sethi, Ms. Mansi Singh, Mr. Anshuman Vashishth, Mr. Pawan Yadav and Mr. Gaurav Adalakra, Advs.

For the Respondent : Mr. Satish Aggarwala, SSC with Mr. Aman Tripathi, Adv. for DGCEI in CRL.REV.P. 608/2014 and for respondents in CRL.REV.P. 609/2014

**CORAM  
HON'BLE MR JUSTICE AMIT MAHAJAN**



## JUDGMENT

1. The present petitions are filed challenging the common order dated 24.05.2014 (hereafter '**impugned order**'), passed in Criminal Revision Nos. 20/2014 and 21/2014, whereby the learned Sessions Court had set aside the order on charge dated 10.12.2013 as well as charge framed on 04.01.2014 in complaint case being CC No. 273/01/13. Consequently, Respondent Nos. 1 to 9 (in CRL.REV.P. 608/2014)/ accused persons were discharged of the alleged offences. The petitioner also seeks restoration of the aforesaid complaint before the learned Trial Court for further proceedings.

2. The germane facts of the present cases are as under:

2.1. The petitioner/ complainant was the director of M/s. Vinay Wires and Poly Products Pvt. Ltd., which was involved in manufacturing of Poly Films, flexible laminates and trading of granule. Allegedly, on 30.06.2009, the accused persons, who were working in Director of General Central Excise Intelligence ('**DGCEI**') at that time, conducted the search operations on various business properties belonging to the petitioner as well as the residential premises of the petitioner. On the said date, the accused persons allegedly apprehended the petitioner from his residential premises, whereafter, he was illegally detained for more than 48 hours at the office of DGCEI, Kanpur. Several complaints were made to the office of DGCEI by the wife and father of the petitioner. The petitioner was ultimately released on 02.07.2009. It is



alleged that the petitioner was subjected to physical and mental torture in detention and he was also forced to sign on certain documents and invoices. The petitioner was also allegedly forced to write his statement under dictation of the accused persons. After being released, the petitioner had to be admitted to a hospital by his family members. Despite writing a letter dated 19.07.2009 to the Chairman, Central Board of Excise and Customs and informing senior officers of DGCEI regarding the alleged torture in detention, no action was taken. The petitioner preferred a writ regarding his apprehension of being further harassed, which was dismissed on 12.10.2009 with the observation that the petitioner was at liberty to seek appropriate remedy if any illegality was committed against him.

2.2. Subsequently, it is alleged that the accused persons again illegally picked the petitioner on 10.11.2009 at 10/11:00PM from Balaji Delux Hotel, Paharganj and forcibly took him to the office of DGCEI, R.K. Puram, where he was wrongly confined from midnight of 10/11.11.2009 till 1:30PM on 11.11.2009. Allegedly, the petitioner was apprehended in pursuance of a criminal conspiracy of the accused persons to harass him, and he was tortured along with one Siddharth Dixit, who was already present in custody of DGCEI. The petitioner along with Siddharth Dixit were allegedly beaten mercilessly with wooden logs and their nude photographs were also taken. Questions and answers were allegedly dictated to them as well. The arrest of the petitioner as well as Siddharth Dixit was shown to be at 1/1:30PM on 11.11.2009, and they were taken to Safdarjung Hospital for preparation



of their MLC. They were also produced before the Duty Magistrate on the same date, who ordered their production before the Court on 12.11.2009. On being produced before the concerned Court on 12.11.2009, the petitioner as well as Siddharth Dixit stated that they had been mercilessly beaten by officers of DGCEI after being lifted on 10.11.2009. They both showed their injury marks to the Court as well, after which, it was observed by the Court that the file did not contain any summons issued to either of them. Medical examination was directed to be conducted, consequent to which, the petitioner and Siddharth Dixit were examined at RML Hospital on the next date.

2.3. The subject complaint was preferred by the petitioner under Section 200 of the Code of Criminal Procedure, 1973 ('CrPC') alleging commission of offences by Respondent Nos. 1 to 9 (in CRL.REV.P. 608/2014) under Sections 341/ 348/ 308/ 324/ 326/ 191/ 192/ 365/ 506/ 193/ 120B/ 34 of the Indian Penal Code, 1860 ('IPC') through his father in relation to the aforesaid allegations.

2.4. On receipt of the complaint, pre-summoning evidence was recorded and summons were issued under Sections 323/ 348/ 365/ 368/ 506/ 34 read with Section 120B of the IPC on 01.12.2009. The summoning order was set aside by this Court by order dated 01.03.2011 essentially on account of absence of sanction under Section 197 of the CrPC. It was also noted that the inquiry was within scope of duties and the officers enjoyed the protection of Section 40 of the Central Excise Act, 1944. It was noted that it could not be said that the acts of the



officers were not done in good faith merely on the complaint of the complainant.

2.5. The Hon'ble Apex Court allowed the appeal filed by the petitioner against the same and remanded the matter to the Trial Court after observing that this Court had erred in quashing the summons on a technicality.

2.6. Pre-charge evidence was led by the petitioner where he examined himself (PW1), his father (PW2) and the Senior Manager of Hotel Balaji (PW3). The petitioner correctly identified the accused persons in Court and deposed on similar lines as his complaint and gave a detailed account of his harassment. PW2 deposed in relation to the petitioner's detention in Kanpur as well as the complaints made before various authorities in this regard. He further deposed that he had seen injury marks on the body of the petitioner on 12.11.2009 when he saw the petitioner in Court, and the petitioner had informed him about being brutally beaten there. PW3 deposed that on 11.11.2009, he had found from the receptionist that some persons had lifted a guest from the Hotel. PW3 also produced CCTV footage.

2.7. DGCEI moved an application for addressing arguments on the limited aspect of sanction, which was allowed by the learned Magistrate.

2.8. In order on charge dated 10.12.2013, it was found that grave suspicion was made out that the accused persons had committed the



offences punishable under Sections 323/348/365/368/506/34 of the IPC and Section 120B of the IPC. It was observed that the petitioner had deposed on similar lines at both the pre-summoning and pre-charge stage, and he had merely elaborated on the conduct of each accused specifically which was not fatal to the case of the prosecution. It was also observed that the testimony of the petitioner is supported by his medical documents as well as the evidence of PW3, who has stated that a guest was lifted from the Hotel on 10.11.2009. The CCTV footage produced by PW3 was perused and it was observed that the same clearly reflects some element of coercion. It was also observed that the same cannot be ignored for want of certificate under Section 65B of the Indian Evidence Act, 1872 as the same was supported by PW3, who was a Senior Manager at the Hotel. It was observed that the accused persons were not protected by the law of sanction as a *prima facie* case of forceful abduction of the petitioner as well as him being beaten for extorting confession had been made out. Pursuant to the same, formal charges were framed on 04.01.2014. Separate revision petitions were preferred by the DGCEI and accused officers against the same.

2.9. The aforesaid order was set aside by the learned Sessions Court by way of the impugned order. It was noted that there were a lot of improvements and contradictions in the case and the petitioner had admitted during cross-examination that he had not mentioned certain allegations in the original complaint as well as prior statements or before the Allahabad High Court. It was also noted that all acts in Delhi were done in pursuance of proceedings in Kanpur, and the petitioner



seemed to have himself come with the officials of DGCEI on service of summons. It was further noted that age of injury was not recorded in the petitioner's MLC, and no such observation was made by the Duty Magistrate in relation to the petitioner having suffered any injury or beating. It was also noted that no report of any adverse physical condition of the petitioner was made by Tihar Jail either, which belies claims of torture. It was noted that the allegations only came to be made on 12.11.2009 and although initially 4 officers were arrayed in the complaint, subsequently 5 more accused were added. Electronic evidence was rejected due to absence of certificate under Section 65B. Lastly, it was noted that DGCEI had maintained that the officers were acting in good faith in their official capacity, whereafter, no allegation of criminal conspiracy could be attributed on the accused persons. It was also noted that there was no fact that all accused officers were even present at the time of incident, which is in contravention to allegations of conspiracy.

2.10. Aggrieved by the same, the petitioner has filed the present petitions.

3. The learned counsel for the petitioner submitted that the Sessions Court had erred in discharging the accused persons by carrying out a mini trial and without dealing with the arguments raised by the petitioner. He submitted that the learned Sessions Court failed to appreciate that there were no material contradictions in the deposition of the petitioner and he had merely elaborated the role of the accused



persons. He submitted that the same cannot be deemed to be improvements or contradictions.

4. He submitted that the Sessions Court has incorrectly observed that the petitioner had admittedly expressed his willingness to join the proceedings on 10.11.2009. He submitted that no such admission was made by the petitioner in his deposition.

5. He submitted that as also recorded by the learned ACMM after appraising the file, no summons were on record of the file and further, no date, time or place of arrest was mentioned in the arrest memo. He submitted that the observation of the learned ACMM regarding no summons was never challenged as incorrect.

6. He submitted that meticulous appraisal of evidence is not needed at the stage of framing of charges, and there is sufficient material on record to proceed against the accused persons.

7. He submitted that the presence of the accused persons at the Hotel as well as the totality of events that unfolded between 10.11.2009 and 11.11.2009 coupled with the MLCs of the petitioner clearly corroborate the case of the petitioner. He submitted that the CCTV footage of the Hotel has been overlooked by the Sessions Court even though the same is corroborated by the statement of PW3. He submitted that probative value of evidence cannot be looked into at the stage of charge.



8. He submitted that it has been erroneously noted that the petitioner failed to make any allegations before the Duty Magistrate, without appreciating that the petitioner has duly stated in his statement on 27.11.2009 that the whole incident had been narrated to the Duty Magistrate, due to which, the petitioner was sent to judicial custody for only one day. He submitted that the emphasis on no injuries prior to judicial custody is belied by the MLC prepared by the Safdarjung Hospital. He submitted that the MLCs of the petitioner have been erroneously overlooked by the Sessions Court.

9. He submitted that the acts of the officers cannot be said to be covered under protection of Section 197 of the CrPC as sanction is only required for acts committed in discharge of duties. He submitted that even in relation to the detention in Kanpur, it is wrongly noted that the incident had been judicially scrutinized without appreciating that the Hon'ble Allahabad High Court had granted express liberty to the petitioner to seek appropriate remedy in case of commission of any illegality. He submitted that even otherwise, the charge was only framed in respect of the incident in Delhi.

10. He submitted that insofar as the implication of additional accused is concerned, the CCTV footage was played in Court and the other identifiable officers were then summoned with the named accused. He submitted that the CCTV footage was downloaded from the original hard disk and the same was produced and proved by the then Hotel



Manager, which is sufficient compliance of Section 65B of the Indian Evidence Act, 1872.

11. The learned counsel for the respondents submitted that no written notice under Section 40 of the Central Excise Act, 1944 was given whereby the complaint was not maintainable.

12. He submitted that the petitioner is a Director in a company which sold finished goods without accounting for the same and without payment of central excise duty, and he was arrested in relation to the said allegations in accordance with law. He submitted that the concerned accused officers conducted search of premises and effected arrest of the petitioner in a *bona fide* manner. He submitted that the CCTV footage was inadmissible as evidence and PW3 has nowhere stated that he prepared the CCTV footage or that he was present at the spot at the relevant time.

13. He submitted that the learned Sessions Court has aptly appreciated that the petitioner had made material improvements in his deposition and there are apparent contradictions in his statements, which warrant no further action against the accused.

## **ANALYSIS**

14. At the outset, it is pertinent to take note of the scope of revisional jurisdiction. The role of this Court in revision proceedings is limited to only assessing the correctness, legality and propriety of the impugned order. This Court is required to exercise restraint and not interfere with



the findings of the impugned order or reappreciate evidence solely because another view is possible unless the impugned order is wholly unreasonable or untenable in law. In a case such as this one where the Sessions Court has already exercised revisional jurisdiction, the aforesaid principles gain even more significance.

15. Since the petitioner is essentially aggrieved by discharge of accused, it will be apposite to also succinctly appreciate the law in relation to framing of charges. The Hon'ble Apex Court, in the case of **Sajjan Kumar v. CBI : (2010) 9 SCC 368**, has culled out the following principles in respect of the scope of Sections 227 and 228 of the CrPC while observing that a *prima facie* case would depend on the facts and circumstances of each case. The relevant paragraphs read as under :

*“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:*

*(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.*

*(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.*

*(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*



***(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.***

***(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.***

***(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.***

***(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”***

(emphasis supplied)

16. The Court at the stage of framing of charge is to evaluate the material only for the purpose of finding out if the facts constitute the alleged offence, given the ingredients of the offence. Thus, while framing of charges, the Court ought to look at the limited aspect of whether, given the material placed before it, there is grave suspicion against the accused, which is not properly explained.

17. In this case, DGCEI has fervently sought to defend the accused officers. It is argued that while arresting the petitioner, the accused



officers were only carrying out their *bona fide* duty, due to which, the DGCEI impleaded itself before the Trial Court. The same is contested by the petitioner who has maintained that he was subjected to torture and illegally detained.

18. Although glaring allegations of illegal detention as well as torture have been levelled in the present case, the sheer gravity of the allegations cannot justify dilution of the threshold of grave suspicion. A perusal of the material on record indicates that the case of the petitioner is abysmally marred with contradictions as well as inconsistencies which make it unsustainable to subject the accused to trial. After duly appreciating the facts of the case, the learned Sessions Court was justifiably persuaded to set aside the order on charge and discharge the accused officers.

19. One of the main grounds agitated by the petitioner before this Court is that the petitioner had merely elaborated upon his initial allegations by specifying the exact role of the accused officers respectively and the same has been wrongly taken as improvements in the deposition of the petitioner. Mere clarification of previous allegations is not sufficient to discredit a witness. Ordinarily, this Court would be loath to even delve into the said aspect at the stage of framing of charges. However, as the allegations are fulcrumed primarily on the statement of the petitioner, consideration of the said aspect cannot be ignored, especially since the allegations pertain to the year 2009.



20. The learned Sessions Court has laboured and culled out the embellishments as well as admitted improvements in the allegations levelled by the petitioner. Perusal of the same indicates that although the petitioner has admitted to not mentioning the concerned allegations in his original complaint, statements dated 27.11.2009 and 01.12.2009 as well as in his writ before Allahabad High Court, he has volunteered an explanation that he was in JC and the complaint was filed by his father, who could not give the complete account. Even if the petitioner is excused for the concerned allegations being absent in the original complaint, it is unfathomable as to why he didn't mention the same while tendering his pre-summoning evidence on *two different dates*. As also rightly appreciated by the learned Sessions Court, the petitioner had signed the writ, despite which, many facts mentioned in the complaint were not mentioned therein. Improvements to this extent and of such nature, which have been made belatedly, severely weaken the case of the petitioner. The same cannot be accepted as mere clarifications.

21. Much emphasis has also been laid by the petitioner on the MLCs as well as CCTV footage. As rightly appreciated by the learned Sessions Court, the MLCs do not record the *age of injury*. The said aspect could have been clarified by the examining doctor, who has not been examined by the petitioner. Although the petitioner has sought to stress that allegations to this effect were made before the Duty MM which led to one day judicial remand, as was duly explained by him on 27.11.2009, this Court is unpersuaded by the same in absence of any



corroborative material to this effect. As noted by the learned Sessions Judge, once an accused is produced before a Magistrate, the noting of such a Magistrate is final. It is also rightly noted by the learned Sessions Judge that an observation of physical condition of accused is made before admitting them in Tihar Jail, but no averse report is made therein. Lack of clarity in relation to injuries mentioned in the MLCs coupled with absence of any record which indicates that any complaint was made before the Duty Magistrate, casts significant doubt on the allegations raised by the petitioner.

22. As far as the CCTV footage is concerned, the same is admittedly not accompanied by any certificate under Section 65B of the Indian Evidence Act, 1872. It is contested by the petitioner that the CCTV footage was downloaded from the original hard disk where the entire original footage was stored, and the same was produced by the then Hotel Manager, who was the custodian of the computer and CPU, and the same was duly proved by him. The learned Trial Court had deemed the electronic evidence to be believable by placing reliance on the judgment in the case of *State (NCT of Delhi) v. Navjot Sandhu : (2005) 11 SCC 600* where it was held that a certificate under Section 65B of the Indian Evidence Act, 1872 is *not the only* mode of proving electronic evidence. The said decision has since been overruled and it is no more *res integra* that an electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65B of the Indian Evidence Act, 1872 are met [Ref. *Anvar P.V. v. P.K. Basheer : (2014) 10 SCC 473*].



23. Perusal of the statements tendered by the Hotel Manager at the pre-summoning stage as well as at the pre-charge stage makes it evident that he has not evidenced that a copy of the recording was made in his presence so as to enable him to vouch for the same being unedited. Rather, he has admitted that the CCTV footage was not downloaded by him and the CD (in which a copy of the footage was produced before Court) was also not prepared by him. The said witness was admittedly not present at the place of occurrence. The footage clearly was also not in custody of the Manager. Thus, once it is settled that the footage in pendrive/ CD cannot be admitted as evidence, the whole allegation in relation to the petitioner being illegally apprehended from the hotel becomes even more fickle in absence of any complaint being made by the hotel management.

24. It is also unfathomable that the staff would take no action if a guest is roughened up, beaten and coerced to check out from the hotel. Further, peculiarly, even though it is stressed that the incident was witnessed by hotel staff, particularly receptionist Mr. K.M. Pandey, no eye witness who could lend credence to the allegations has been joined by the petitioner.

25. In such circumstances, when the petitioner's version is marred by embellishments, the MLCs lack clarity and the footage is inadmissible, the learned Sessions Court has rightly noted that it is unclear as to whether all accused took remand, or they were even present on the intervening night of 10.11.2009- 11.11.2009. The case of the petitioner



is further rendered suspect by arraying of only 4 officers initially, whereafter, 5 more officers were added and two more remained unnamed.

26. It is also argued that there are substantial anomalies in the time of arrest of the petitioner and deficiencies in arrest memo due to lack of particulars. In the opinion of this Court, having taken note of the infirmities in the case of the petitioner, the said fact alone is insufficient to cast grave suspicion against the accused.

27. The case of the DGCEI and accused has been that the petitioner was arrested after he joined investigation in pursuance of summons after evading service on multiple occasions. The petitioner has sought to create doubt on the said timeline of events by contesting that *no summons* were issued to him, as is evident from the observations made by the learned ACMM on 12.11.2009. Pertinently, the learned ACMM noted that the accused had initially denied their presence at the Hotel in reply to the petitioner's bail application (Ex. CW1/10) and later somersaulted by admitting to their presence at the Hotel during cross examination. Perusal of the concerned reply only evidences that DGCEI maintained that the petitioner had voluntarily come in compliance of summons dated 10.11.2009. Although the service of the summons as well as the petitioner going to the office of DGCEI at such a late hour appears odd at first blush, the facts of the case clearly reflect that the petitioner had been evading summons on flimsy grounds, which may



have prompted the officers to serve summons at night when they learnt of the petitioner's whereabouts.

28. While it is contested that the learned Sessions Judge has erroneously recorded that the petitioner never expressed his willingness to join the investigation on 10.11.2009 in pursuance of any summons, however, a perusal of the petitioner's pre-charge evidence shows that although the petitioner had alleged that he was being beaten, he had explicitly stated that he was willing to accompany them. Although it is also disputed that the petitioner did not voluntarily turn up at the office of DGCEI, however, as observed in the impugned order, it surfaced during arguments that the petitioner had himself made a claim to this effect in one of his bail applications.

29. Insofar as the contention in relation to no summons being placed on record is concerned, it is stressed that the files perused by the learned ACMM on 12.11.2009 were not the case files. It is contended that the learned ACMM had signed on a file of arrest and few other files, including a file of complaints of non-compliance of summons by DGCEI to show the non-cooperation of the petitioner during investigation. The learned Sessions Court has found the said explanation to be plausible. This Court finds no perversity in the same.

30. The evidence of the petitioner's father in relation to events that transpired before his arrival in Delhi on 12.11.2009 has also been rightly discarded as hearsay evidence.



31. It will be apposite to appreciate that the allegation of the petitioner from the very start has been that the incident in Delhi was the result of a conspiracy in retaliation of his action of making complaints in regard to the incident in Allahabad. The learned Trial Court has also been weighed by the same and noted that the incidents in Kanpur have been elaborated to show the ill designs of the accused. The learned Sessions Judge had noted that the actions in Allahabad cannot be the basis of prosecution against the accused. The petitioner has rightly pointed out that the charges are only in relation to the incident in Delhi and he had received liberty to take appropriate action in relation to any illegality against him. Bald allegations of conspiracy however do not help the case of the petitioner. Pertinently, as per the record, nothing came of the complaints made by the petitioner in relation to the purported incident in Kanpur as well. Thus, the motive of the incident is itself under shadow. In view of the same, considering the unreliability of the CCTV and MLCs as well as the embellishments in the allegations by the petitioner, this Court is of the opinion that the petitioner has failed to make out a case of grave suspicion against the accused offers.

32. The department has also shown confidence in its officers and repeatedly iterated that the actions of the accused were within the bounds of law and done within the course of duty. It is maintained that the actions of the accused persons were done in good faith, and the Court ought not to have proceeded against the officers in absence of valid sanction. Although it is well-settled that mere overreach committed while purporting to act in official capacity doesn't forfeit the



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protection of sanction, having found that the petitioner has failed to make out a case on merits for framing of charges, this Court does not consider it necessary to delve into the issue as to whether the alleged acts of the accused officers would be such which would require sanction at all.

33. Keeping in mind the limited scope of revisional jurisdiction, this Court is of the opinion that there is no such palpable perversity or infirmity in the observations of the learned Sessions Court, which warrants interference of this Court.

34. The present petitions are dismissed in the aforesaid terms. Pending applications are also disposed of.

35. A photocopy of the Judgment passed today be kept in the connected matter.

**AMIT MAHAJAN, J**

**MAY 22, 2026**