



2026:DHC:32



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

% **Reserved on: 06th November, 2025**
Pronounced on: 05th January, 2026

+ **CRL.M.C. 6474/2018, CRL.M.A. 50111/2018 (stay)**

MANOJ MISHRA

S/o Late Ram Kishan Mishra,
R/o G-216, Gali No. 1, Teesra Pusta,
New Usmanpur, Delhi

.....Petitioner

Through: Mr. Parmesh Bali, Mr. Gagan Garg,
Mr. Shivam Srivastav, Mr. Keshav
Maheshwari and Mr. Abhishek
Nandan, Advs.

versus

1. **STATE (GNCTD)**

Through Its Standing Counsel (Crl.)
Lawyers Chambers
Delhi High Court
New Delhi

.....Respondent No.1

2. **SMT. SADHANA MEHROTA**

W/o Late Sh. Somesh Mehrotra,
R/o E-11, Third Floor, Defence Colony,
New Delhi-110024.

....Respondent No.2

Through: Mr. Shoaib Haider, APP for the State.
Mr. Yashpal Singh, Mr. Abhinandan
Gautam and Mr Himanshu Baliyan,
Advocates for R-2.

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+ **CRL.M.C. 2524/2019, CRL.M.A. 10033/2019 (stay) & 38208/2019**
(delay)

SURESH KUMAR

S/o Sh. Jhuntharam
Resident of Mukandpura,
Khetri, Thathwari,



Jhunjhunun
Thathwari,
Rajasthan-333036

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CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The aforementioned Criminal Miscellaneous Petitions under Section 482 read with Section 483 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'CrPC'*), have been filed on behalf of the **Petitioners**, namely, **Manoj Mishra and Suresh Kumar** to quash the Criminal Proceedings arising out of FIR No. 1079/2015 under Section



341/506/34 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) registered at Police Station Amar Colony and also against the Orders dated 18.04.2017 and 03.08.2018, respectively, whereby Charges under Section 341/34 IPC were framed and also against the Order dated 20.07.2018 *vide* which **additional Charge under Section 354 IPC**, was directed to be framed against the Petitioners.

2. The Petitioners have stated that there was an untimely and sudden death of Mr. Somesh Mehrotra, one of the Directors of VLS at the young age of 48 years under mysterious circumstances, at his residence on 22.08.2015. Thereafter, the guards including the Petitioners, were appointed to safeguard and protect the office and monitor and regulate the movement of visitors in the Office of the VLS Group Companies, in order to instil security and confidence amongst his employees, who were under a state of shock and fear because of the mysterious death.

3. Mr. Mahesh Prasad Mehrotra, father of the deceased, Mr. Somesh Mehrotra, had made Complaints to the Local Police on 22.08.2015 in regard to the suspicious and mysterious death of his son, which was investigated by the Crime Team of Delhi Police. Thereafter, FIR No.246/2016 under Section 304 IPC, was registered, which is pending investigation.

4. The Petitioners had joined the services and duties **as guards** on 17.09.2015 and were posted at the Office of VLS Group of Companies at 13, *Sant Nagar, East of Kailash, New Delhi-110065*. There was another Guard also appointed.

5. The Respondent No.2/Ms. Sadhana Mehrotra, wife of Late Mr. Somesh Mehrotra (about which the Petitioners were not aware), who admittedly was neither an employee nor official or the Director of the



Company, along with one male colleague, visited the Office on 18.09.2015 and forcibly tried to enter into the private Office premises, despite it not being a public place. She did not disclose the details, particulars and purpose of visit. The Petitioners as part of their guard duties, politely requested them to give their particulars, details, etc. in the *Visitor Register*, but they refused in abusive language and tried to enter the premises forcibly.

6. However, the Respondent No. 2 made a false and frivolous Complaint with sole aim and objective to satisfy her high inflated egos, high socio-financial stature, as to how could the Petitioners being only the Guards, could dare to ask her and her colleague to give their details and particulars about whom they had come to meet and to make the necessary entry in the *Visitor Register*. The Respondent No. 2 in order to teach a lesson to the Petitioner, filed the false and *mala fide* Complaint alleging that he had held her upper arm to stop her and her male colleague, from forcibly entering the premises.

7. A call was made to No. 100 on 18.09.2015, for lodging the Complaint against the Petitioners. The Petitioners were thereafter, handed over to the Local Police.

8. It is claimed that the Respondent No. 2 deliberately did not give any Complaint to the Police on 18.09.2015 and also did not get herself medically examined, as no such incident actually had happened, which necessitated making a Criminal Complaint under Section 341/506/34 IPC. The Petitioners have further submitted that as a part of well thought of strategy, Respondent No. 2 under some legal advice, made this false **Complaint dated 19.09.2015**, implicating the Petitioners.



9. Thereafter, she, again under further legal advice, made a **Complaint dated 22.09.2015** at Police Station Amar Colony. On the basis of the second Complaint, **FIR No. 1079/2015 under Section 341/506/34 IPC**, was registered against the Petitioners. *After investigations, which were not fair, a Charge-Sheet under Section 173 CrPC, was filed in the Court.*

10. It is asserted that the entire gamut of facts and circumstances reveal that no offence under Section 341/354/34 IPC is made out against the Petitioners, who acted purely in discharge of their duties as Guards.

11. Learned Metropolitan Magistrate after the filing of the Charge-Sheet, took **cognizance for the offences under Section 341/34 IPC**. A Protest Petition under Section 173(8) CrPC was filed by the Respondent No. 2/Complainant. The learned Metropolitan Magistrate *vide* Order dated 18.04.2017 dismissed the Protest Petition of Respondent No. 2 seeking further investigations. **The Charges under Section 341/34 IPC were framed on 18.04.2017.**

12. The Respondent No. 2 filed *Criminal Revision Petition No. 350/2017* praying for framing of Additional Charge under Section 354 IPC. The Revision Petition was allowed *vide* Order dated 20.07.2018 by the learned ASJ, directing the learned Trial Court to frame the Additional Charge under Section 354 IPC. In compliance thereof, **the Additional Charge under Section 354 IPC was framed against the Petitioners on 03.08.2018.**

13. The Petitioners have sought the quashing of the two Orders on Charge, on the ground that *ex facie* on the basis of averments made in the Complaint, no offence under either of the Sections, is disclosed against the Petitioners. Furthermore, Section 34 IPC has been added without disclosing how *common intention* is attracted in the facts of this Case. It is claimed that



the present Complaint has the sole objective to wreak vengeance and satisfy the inflated egos. There is no medical record to corroborate that the Respondent No. 2 had suffered any injuries.

14. Reliance is placed on Popular Mutiah vs. State represented by Inspector of Police, reported as JT 2006 (6) SC 332 wherein it was held that that the High Court has inherent powers under Section 482 CrPC to correct the errors of the courts below and to pass appropriate orders necessary to do justice between the parties. Reliance is also placed on State of Karnataka vs. Muniswamy and others, (1977) 2 SCC 699.

15. *A prayer is therefore, made that the entire Charge-Sheet along with the two Orders on Charge, be quashed.*

16. The **Respondent No. 2, Ms. Sadhana Mehrotra in her Reply**, has explained that Late Mr. Somesh Mehrotra, her husband was a renowned name in the field of corporate services and had 20 years' experience. With his hard work and skill, he had built up VLS Group of Companies and other subsidiary Companies. He had accumulated a number of assets and held valuable estate. He was a great philanthropist, who believed in serving the society. He was promoter and Director in VLS Group and was holding (96,38,020 shares (41.61%) in VLS Capital Limited and had controlling stake in the Company.

17. Mr. Somesh Mehrotra, her husband, died on 22.08.2015 and was survived by the Respondent No. 2 and their minor daughter, Ms. Daya. In October-December, 2014, Late Mr. Somesh Mehrotra along with his wife and daughter, had shifted from C-561, First Floor, Defence Colony, New Delhi to rented premises at E-11, Third Floor, Defence Colony because of the pressure created by Mr. Mahesh Prasad Mehrotra, her father-in-law.



Untimely demise of Mr. Somesh Mehrotra, left the Respondent No. 2 and the minor daughter emotionally drained and they had not been able to find strength to accept the loss and to face the struggle of the life, in his absence.

18. A Complaint dated 19.09.2015 was given to ACP by the Respondent No. 2 stating that she was being pressurised, threatened and emotionally influenced to give away her husband's hard earned and nurtured Companies, at a throw away price. She and her daughter, were in constant fear of death and loss of property and reputation at the hands of father-in-law, brother-in-law and Mr. Rajesh Jhalani, CA, with the aid and assistance of other confidantes.

19. Mr. Vikas Mehrotra, the brother-in-law during one of his visits on 05.09.2015 to the residence of the Respondent No. 2, had tried to convince her that the VLS Group Companies were facing various litigations and that it was not a suitable place for her and her daughter to stay. He suggested that she may take some money against the shares and sever all the relations and ties with them and that he would help them to settle separately.

20. Being apprehensive of the dubious conduct of Mr. Vikas and Mr. Mahesh Prasad Mehrotra and with a view to have an idea of the shares and estate of her late husband, she tried to contact the Directors and Officers of VLS Group Companies, but they were all hostile against her. She then contacted Mr. Rajesh Jhalani by e-mail dated 14.09.2015 seeking information, but all her requests fell to deaf ears, as he also failed to respond to her e-mails.

21. On 14.09.2015, her father-in-law had called her at some place outside the family residence or Office premises, to have discussions. They met at Hotel Hyatt where the father-in-law repeatedly asked the Respondent No. 2



as to what she wanted. When she expressed her desire to attend the Office, he suggested that he could attend the office, but must not touch or disturb anything, thereby implying total denial of control.

22. She came to know that Mr. Mahesh Prasad Mehrotra had managed to be on the Board of Directors of the Companies and he controlled the Board, as well as the staff of the Company.

23. Neither brother-in-law, Mr. Vikas Mehrotra nor father-in-law, went to Haridwar for immersion of the ashes of Late Mr. Somesh Mehrotra. Instead, they went around searching and taking away all the records of Mr. Somesh Mehrotra. As a part of the conspiracy, they got the Guards posted at the Office premises.

24. The Respondent No. 2 on 16.08.2017, came to know that father-in-law, brother-in-law, Ms. Divya Mehrotra and Directors of VLS Finance Limited, had fraudulently got transferred 4,70,500 shares (approximately Rs.5 Crores) of VLS Finance Limited in their names on 29.06.2015, owned by Smt. Sushma Mehrotra, mother of her husband, who had died on 09.04.2015. Similar incident of fraud was committed in early September, 2015 when 4.10 Crores were transferred by father-in-law, as purported Karta of HUF to the daughter Divya Mehrotra, who in turn invested the same with Mr. Vikas Mehrotra. Such acts constituted criminal breach of trust and conspiracy, as according to law, the HUF ceased to exist on 22.08.2015.

25. On the date of incident i.e. 18.09.2015 at about 04:30 p.m., she had gone to the Office of VLS Group Companies along with one Mr. Virender Bisht, when she was stopped by two bouncers, who were carrying pistol. The Respondent No. 2 was manhandled and physically restrained from entering the office premises. They disrespected her in front of the staff. As



she proceeded to the Office premises, Petitioner, Mr. Manoj Mishra held her upper arm and stopped her, which made her scream. These bouncers had been hired by her brother-in-law and father-in-law only two or three days ago, with a view to prevent the entry of the Respondent No. 2. She then sat on the staircase. On hearing her scream, Mr. K.K. Soni, Director VLS Finance Limited, reached there and on enquiry, he told that Mr. Ashwani knows about the appointment of Guards. Later, it was revealed that these bouncers were hired by Mr. Vikas Mehrotra and the father-in-law and were being paid Rs.30,000/- per month.

26. The Applicant, who is the brother of driver of Mr. Vikas Mehrotra, provided photographs of the Respondent No. 2, in the phones of the bouncers. She had an apprehension that supari was given to the bouncers by Mr. Vikas Mehrotra. The Respondent No. 2 made a prayer in the Court to take cognizance of the offence under Section 120B IPC against Mr. Vikas Mehrotra, brother-in-law, and Mr. Mahesh Prasad Mehrotra, father-in-law, Mr. Rakesh Kumar, Mr. Pradeep Sharma and other Directors of VLS Finance Limited.

27. The Respondent No. 2 has further asserted that suffering the assault on her modesty by the Petitioners, she came back home. She gave the **Complaint to ACP on the next day i.e. 19.09.2015**. However, the Complaint was against Mr. Vikas Mehrotra, father-in-law and Mr. Rajesh Jhalani for their threats and criminal acts. The incident of 18.09.2015 was also mentioned in the Complaint. However, no action has been taken by the Police against the named persons.

28. Second **Police Complaint dated 22.09.2015** specifically mentioning the incident of 18.09.2015, was given, on which the present FIR was



registered. It was clearly stated by the Respondent No.2 that the bouncers had told her that they were acting on the instructions of Mr. Vikas Mehrotra and father-in-law, who had directed them to stop the Respondent No. 2 from entering the office premises.

29. The Charge-Sheet was filed on 23.05.2016 without mentioning the offences under Section 354/421/120B IPC. Therefore, she had filed Protest Petition and the learned Trial Court *vide* Order dated 18.04.2017 held that *prima facie* offence under Section 354 IPC was not made out and framed Charges under Section 341/34 IPC. It is only on challenge to the Order before the Revisional Court, that the Charges under Section 354 IPC were framed.

30. **On merits**, all the averments made in the Petition, are denied. It is asserted that from the Complaint, *prima facie* offence under Section 354 IPC, was clearly made out.

31. *There is no infirmity in the Orders of Charge and the present Petitions are liable to be dismissed.*

32. **Written Submissions have been filed on behalf of the Respondent No. 2** whereby she has reaffirmed the assertions made in her Reply.

Submissions heard and record perused.

33. The undisputed factual matrix is that the Petitioners were employed as security guards on 17.09.2015, one day before the alleged incident of 18.09.2015. They were posted at the office premises of VLS Group of Companies following the mysterious death of Mr. Somesh Mehrotra on 22.08.2015. The Respondent No. 2 (widow of Late Mr. Somesh Mehrotra) was embroiled in disputes with her in-laws regarding shares and assets of the deceased. It is in this backdrop of familial dispute, that the alleged



incident occurred on 18.09.2015, when Respondent No. 2 attempted to enter the office premises.

34. The Charges under Section 341/34 IPC were framed against the Petitioners on 18.04.2017 and additional Charge under Section 354 IPC was framed on 03.08.2018, pursuant to the directions of learned ASJ in the Re4vision Petition.

35. The core issue for consideration is *whether the allegations made in the Complaint, even if taken at face value, disclose the commission of cognizable offences warranting continuation of criminal proceedings against the petitioners.*

Charge under Section 339/341 IPC:

36. The Petitioners have claimed that no offence under Section 341 was made out against them.

37. To appreciate the contentions of the Petitioners, it would be relevant to reproduce Section 339 IPC, which defines *Wrongful Restraint*, which is punishable under Section 341 IPC. **Section 339 IPC reads as under:**

“Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception — *The obstruction of a private way over land or water which a person in **good faith believes himself to have a lawful right to obstruct**, is not an offence within the meaning of this section.”*

38. The **essential ingredients** to constitute the offence of wrongful restraint are: **(1)** that there is an obstruction; **(2)** that the obstruction prevents a person from proceeding in any direction, and **(3)** that the person so proceeding must have a right to proceed in the direction concerned.



39. A plain reading of Section 339 IPC, makes it clear that the offence of wrongful restraint is attracted only when a person voluntarily obstructs another so as to prevent him from proceeding in a direction in which he has a lawful right to proceed. Thus, the existence of a deliberate obstruction coupled with the infringement of a legally protected right of movement, is *sine qua non* for the offence.

40. Significantly, the Exception carves out a qualification that when caused by a person acting in good faith under the belief that he has a lawful right to do so, such act does not amount to wrongful restraint. Consequently, where such *bona fide* belief exists, the foundational elements of the offence of wrongful restraint under Section 339 IPC are absent, and therefore, the penal consequences contemplated under Section 341 IPC do not arise.

41. **Here**, the Complainant herself in her Complaint dated 19.09.2015 had stated that 18.09.2015 at about 04:30 p.m., she along with Mr. Virender Bhatt, had gone to the business Office of VLS Companies where two Guards/Petitioners were found posted, who stopped her from entering the Office and that one of him was carrying a weapon. When she questioned them, they informed her that Mr. Vikas Mehrotra and Mr. Mahesh Prasad Mehrotra had given instructions to them to bar her from entering the office premises. As she proceeded towards the Office, one of the Guard (Petitioner/Manoj Mishra) held her upper arm, to restrain her from entering the Office. She screamed in panic. On hearing, Mr. K.K. Soni, the Director reached the spot. Later, on further enquiry, she came to know that the two Guards had been hired by her brother-in-law and father-in-law, to bar her from entering the Office.



42. From the averments made in the Complaint, *the first aspect*, which emerges is that the incident of 18.09.2015. The Respondent No. 2 had given a detailed Complaint on 19.09.2015, which contained allegations against her brother-in-law, father-in-law and others for entering into a conspiracy to deprive her of the legitimate dues of her late husband, who had died on 22.08.2015. In the said Complaint, she had also made reference to the incident on 18.09.2015. However, no action was taken by the Police on the Complaint, which prompted the Complainant to make the second Complaint on 22.09.2015, which was specifically targeted towards the incident of 18.09.2015.

43. In this regard, it may be observed that the Complainant is the wife of Late Mr. Somesh Mehrotra and after his demise, had disputes over the property and assets with her in-laws immediately upon the demise of her husband. The in-laws, brother-in-law, father-in-law and others, were making an endeavour to make the Complainant give or sell her shares to them and even the meetings were held with her, on different dates.

44. It is in this backdrop, that the incident of 18.09.2015 needs to be appreciated.

45. The Complainant herself had stated in her Complaint that the Applicant and another guard, had been posted by her brother-in-law and father-in-law to prevent her entry into the office premises of VLS Group Companies. She has nowhere asserted that she was regularly visiting the premises or *had a right to enter into the premises*. Pertinently, she stated that while she was making an endeavour to enter the Office, she was restrained by the Petitioner, who was the Security Guard, by holding her upper arm to prevent her from entering the office.



46. The Petitioners being Security Guards, had the bounden duty to ensure that no unauthorised person enters the office premises. The Complainant had nowhere asserted or even *prima facie* stated that she had a right to enter into the Office premises. Furthermore, the Security Guards, as per the Complaint itself, were discharging the duties for which they had been employed by the brother-in-law and father-in-law of the Complainant. Such act of restraining the Complainant for entering the Office for which she had no right, cannot be termed as an act of *wrongful restraint*.

47. Furthermore, in terms of the Exception, it is evident that the act of the Petitioners *was in good faith in order to discharge their duties*.

48. It may be an unfortunate case where a young widow faces alleged harassment at the hands of the in-laws who may have appointed the Guards to prevent her entry into the office premises, but it nowhere shows even a *prima facie* case of Section 341 against the Applicants.

49. *The Complaint, therefore, if read as a whole, does not disclose the offence under Section 341 IPC.*

Charge under Section 354 IPC:

50. Having concluded that no offence under Section 341 IPC is made out, it is imperative to now examine whether the more serious charge under Section 354 IPC which was added subsequently on 03.08.2018, in terms of the Order of the learned Revisional Court, is *prima facie* made out.

51. It is trite law that to constitute the offence under Section 354 IPC, criminal force must be applied against her with the ***intent to outrage her modesty***. The *pertinent aspect* is that as per the Complainant herself, she was caught by the Petitioners from her arm, in an endeavour to restrain her from entering the Office premises. By no stretch of imagination, can it be



said that this act was intended with a “sexual intent” to outrage her modesty. Significantly, no such allegations have been made in the Complaint and no such intention can be inferred from the acts of the Petitioners as mentioned in the Complaint. *Clearly, it was an act of restraining the Complainant from entering the premises and no offence under Section 354/34 IPC is made out against the Petitioners.*

52. It is, therefore, held that no Charges under Section 341/34/354 IPC have been made out.

53. In the end, it would be pertinent to observe that the comprehensive reading of the Complaint reflects that it is a conflict between the Complainant and her in-laws, after the demise of her husband. The incident happened on 18.09.2015 and the Complainant had made a complaint on the next day, i.e. 19.09.2015 wherein the grievance was essentially against the in-laws and there was merely a passing reference to the incident dated 18.09.2015, in the context of employing the guards to prevent her entry in the office. Finding that no action was taken on her complaint, she made another Complaint dated 22.09.2015 (FIR No.1079/2015) wherein the Petitioners were made the real perpetrators of alleged crime. It is evident that in this family fight, the Petitioners, who were the Security Guards who had been employed just a day before the incident, were targeted when the Complainant was unable to mobilize the Police against her in-laws. It is clearly a case of abuse of process of law and the Charge Sheet itself is liable to be quashed along with all the proceedings emanating therefrom.

Relief:

54. The Petitions are **allowed** and the Charge Sheet in FIR No. 1079/2015, along with the impugned Orders dated 18.04.2017 and



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03.08.2018 of the learned Metropolitan Magistrate framing the Charges under Section 341/34 IPC and Section 354 IPC respectively, is hereby quashed.

55. The Petitioners are discharged from the aforesaid offences.

56. The pending Applications, if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 05, 2026/RS