



2026:DHC:5771



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 13.07.2026

Pronounced on: 21.07.2026

Uploaded on: 21.07.2026

+ CRL.M.C. 3629/2023 & CRL.M.A. 12652/2026

ANUPAM SHAHU

.....Petitioner

Through: Ms. Ashima Mandla, Ms.
Mandakini Singh, Advs. with
petitioner-in-person.

versus

THE STATE

.....Respondent

Through: Mr. Nawal Kishore Jha, APP.
SI Parag, PS Kishangarh.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. This hearing has been done through hybrid mode
2. By way of present petition filed under Section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as the '*CrPC*'), the petitioner herein seeks quashing of the ***FIR No. 105/2020*** dated 28.03.2020 registered at PS Kishangarh, District South – West, for offences punishable under Sections 188, 269, 270 and 336 of the Indian Penal Code, 1860 (hereinafter referred to as the '*IPC*'), and all the consequential proceedings emanating therefrom.

FACTUAL MATRIX

3. According to the FIR, on 28.03.2020, ASI Sarjeet Singh and Ct. Sudhir were on picket duty from 2:00 p.m. to 10:00 p.m. at Aruna Asaf Ali Marg for the enforcement of the lockdown imposed to contain COVID-19, when they saw a man walking on the road from the Kishangarh side towards



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JNU. He was stopped and asked who he was and why he was outside during the lockdown. The petitioner disclosed his identity as Anupam Sahu, a resident of Kishangarh, Delhi, and informed them that he was unable to pass his time sitting at home, so he had come out for a walk.

4. Based on this statement alone, the complainant (*who was also the Investigating Officer in the case*) recorded that the petitioner had violated **MHA Notification No. U-11036/3/1978(1) UTL** dated 01.07.1978 and **Order No. 2040-2140/R/ACP/Sub-Division Safdarjung Enclave** dated 24.03.2020, and had consequently committed an offence under Section 188 IPC. On the same evening, an FIR was registered under Section 188 IPC, and the petitioner was arrested immediately and later released on police bail.

5. Subsequently, offences under Sections 269, 270, and 336 IPC were also invoked against the petitioner in the chargesheet. The chargesheet rests solely on the statements of three police witnesses, namely, ASI Sarjeet Singh (the IO/complainant), Ct. Sudhir, and HC Brahm, the Duty Officer. There was no public witness, and no medical test or examination of the petitioner was ever conducted. Along with the chargesheet, the ACP, Sub-Division Safdarjung Enclave, filed a complaint dated 02.06.2020 under Section 195 CrPC before the Court of the learned Metropolitan Magistrate (hereinafter referred to as the “MM”), seeking cognizance of the offence under Section 188 IPC.

6. On 24.05.2022, the learned MM took cognizance of the offences and, consequently, summoned the petitioner. On 24.04.2023, learned counsel appearing on behalf of the petitioner entered appearance before the learned MM. Since the case is triable as a summons case, and there is no stage of framing of charge, the petitioner approached this Court by filing the present petition on 16.05.2023.



SUBMISSIONS ON BEHALF OF THE PETITIONER

7. Learned counsel for the petitioner submits that the petitioner was not out on an idle stroll but was proceeding for a medical follow-up, as he had been suffering from severe back pain. In support of this contention, learned counsel places reliance on a medical certificate dated 21.03.2020 issued by Dr. Prakash Kumar Mishra. Furthermore, even under the MHA guidelines (*in force at the relevant time*), the movement of persons for essential purposes, including medical needs, was never prohibited.

8. On the aspect of the applicability of Section 188 IPC, learned counsel submits that the foundational ingredients of the said offence are *ex facie* absent, as the order dated 24.03.2020 was not even annexed to the chargesheet, and even the FIR contains no averment regarding its promulgation or the petitioner's knowledge thereof. Learned counsel places heavy reliance on ***Mohd. Anwar & Ors. v. State (NCT of Delhi), 2025 SCC OnLine Del 4951***, to demonstrate that a Coordinate Bench of this Court quashed a batch of FIRs, registered within days of the present FIR, based on identically worded orders issued by various ACPs.

9. On the aspect of the applicability of Sections 269 and 270 IPC, learned counsel asserts that both these sections presuppose an infected person acting with "*knowledge*". However, the petitioner was never tested for COVID-19, and it is not even the case of prosecution that he was COVID-19 positive.

10. Learned counsel further contends that the cognizance taken by the learned MM is bad in law, as it is barred by Section 195(1)(a)(i) CrPC. It is asserted that the ACP's complaint dated 02.06.2020 is a belated attempt to fill the lacuna.



11. Learned counsel for the petitioner also challenges the fairness of the investigation. It is contended that the IO and the complainant are the same person, thereby investigating a case of his own making. Moreover, the chargesheet filed on 02.06.2020 rests solely on the testimony of police officials, and the statement of Ct. Sudhir recorded under Section 161 CrPC is merely a reiteration of the *tehrir* and adds nothing independent.

SUBMISSIONS ON BEHALF OF THE STATE

12. Learned APP for the State submits that the petitioner was apprehended on a public road during the period when the COVID-19 restrictions imposed by the State were in force. The explanation offered by the petitioner upon being questioned by the police officials was found to be unsatisfactory and in violation of the MHA notification and the order dated 24.03.2020. Accordingly, the FIR came to be registered against him under Section 188 IPC.

13. Learned APP submits that, pursuant to the directions of this Court, the petitioner's medical documents were verified. The medical certificate dated 21.03.2020 issued by Dr. Prakash Kumar Mishra of Neuron Physiotherapy & Rehabilitation Centre was found to be genuine. However, the prescriptions purportedly issued by Care and Cure Clinic could not be verified, as the clinic was not functioning at the given address.

ANALYSIS AND FINDINGS

14. This court has heard the learned counsel for the Petitioner and learned APP for the State and perused the record.

15. At the outset, it is clarified that the fact that cognizance has been taken by the learned MM is no bar to the maintainability of the present petition. In *Anand Kumar Mohatta v. State (NCT of Delhi)*, (2019) 11 SCC



706, the Supreme Court held that the power under Section 482 CrPC survives the filing of the chargesheet. Indeed, any abuse of the process of law stands aggravated once unfounded allegations harden into a prosecution. The relevant paragraph of the judgment is reproduced hereinbelow:

*“16. There is nothing in the words of this Section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High court can exercise jurisdiction under Section 482 of CrPC even when the discharge application is pending with the trial court. **Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced, and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court.**”*

16. The principal question that, therefore, falls for consideration is whether the allegations in the FIR and the material collected during the investigation, even if accepted in their entirety, disclose the commission of the offences alleged. The answer to that question necessarily requires an examination of the ingredients of each of the offences invoked by the prosecution.

SECTION 188 OF THE IPC:



17. The prosecution under Section 188 IPC forms the fulcrum of the present case. It is, therefore, necessary to first examine the essential ingredients of the said provision. Section 188 IPC is reproduced hereinbelow:

“188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation. — It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.”



18. From a bare reading of Section 188 IPC, the following five ingredients emerge: **(i)** an order promulgated by a public servant lawfully empowered to promulgate it; **(ii)** knowledge of that order on the part of the accused; **(iii)** disobedience of it; and **(iv)** such disobedience causing or tending to cause; **(v)** obstruction, annoyance or injury to persons lawfully employed, or danger to human life, health or safety, or a riot or affray. The *Explanation* to the provision dispenses with the requirement of an intention to cause harm; however, it does not dispense with the requirement of knowledge of the order. “*Knowledge*” is the hinge on which the offence turns.

19. In ***Bhoop Singh Tyagi v. State, 2002 SCC OnLine Del 277***, this Court held that, although *knowledge* may, in certain circumstances, be presumed, the FIR must at least furnish an inkling that the accused had knowledge of the order and had knowingly disobeyed it. In the absence of such *knowledge*, no offence under Section 188 IPC is made out, and the FIR would be liable to be quashed. The relevant paragraphs of the judgment are reproduced hereinbelow:

“8. We are not at this stage concerned with police commissioner's competence to pass an order requiring house owners to give particulars of their tenants under Section 144 under challenge before us. But it would have to be examined whether his order was to the knowledge of the petitioner and he had knowingly disobeyed it.

9. As already seen, a person booked under Section 188 IPC must have actual knowledge of public servant's order requiring him to do or abstain from doing some act. Acquiring or



gaining of such knowledge is a pre-requisite. Any proof of general notification promulgated by a public servant would not satisfy the requirement.

10. It is true that the knowledge of accused could be presumed in certain circumstances but all the same a complaint/FIR must indicate, even though not in very express terms, that he had the knowledge of the order and had knowingly disobeyed it. Where the terms of complaint/FIR did not provide even as inkling in this regard, it cannot be said to make out or constitute an offence under Section 188 and in such a situation, it would warrant to be quashed.”

20. In ***Mohd. Anwar (supra)***, a Coordinate Bench of this Court, while dealing with the very orders dated 24.03.2020 issued by various ACPs across the city, explained the meaning and scope of the expression “promulgation” in the following terms: -

“69. The meaning of word “promulgation” came up for consideration before Allahabad High Court in the case of State v. Tugla, 1955 SCC OnLine All 282, wherein, it was observed that word ‘promulgate’ means “to make known by public declaration, to publish; to disseminate or to proclaim”. In essence the word connotes two ideas: (1) making known of an order and (2) the means by which the order is made known must be by something done openly and in public. Private information will not be “promulgation”.



But the law does not prescribe any particular mode in which an order is made known openly and publicly. It may be by beat of drum; it may be by publication in Gazette; it may be by reading out the Order openly in public.

70. Any Order announced in open Court shall be deemed to have been promulgated, but as the Court room is a place where the litigants are expected to go and the public at large is not expected to be present though they have right to go there if they so wish, the open declaration of the Order in Court will be deemed to be a Notice not to the public at large, but to the parties of the case in which the Order is passed.”

21. Considering this legal position, the present prosecution collapses at the threshold. A perusal of the record shows that the order dated 24.03.2020, which is alleged to have been violated by the petitioner, does not accompany the chargesheet. Furthermore, neither the FIR, the chargesheet, nor the statement of Ct. Sudhir contains a single averment that the said order was promulgated by way of proclamation, publication, affixation, or any other public mode, or that it was published in any newspaper or other media circulating in the area where the petitioner resided, or that the petitioner had knowledge of it. There is, quite literally, nothing on record in this regard. Knowledge cannot be presumed in a vacuum, least of all on the fourth day of an unprecedented nationwide lockdown.

22. The prosecution equally fails to establish the consequence contemplated under Section 188 IPC. The petitioner was merely a solitary pedestrian. It is not the case of the prosecution that Petitioner’s conduct



caused, or was even likely to cause, any obstruction, annoyance, or injury to a person lawfully employed, or any danger to human life, health, or safety, or a riot or affray. Beyond the petitioner's presence on a public road, the FIR alleges no overt act whatsoever. Mere presence on a public road, unaccompanied by any circumstance capable of attracting the consequences envisaged under Section 188 IPC, does not constitute an offence under the provision. The significance of the absence of any overt act is further underscored by the fact that the lockdown regime did not impose a blanket prohibition on movement, but expressly permitted movement for essential purposes, including medical needs.

23. The explanation advanced by the petitioner falls squarely within the above-mentioned exception. The medical certificate dated 21.03.2020 was issued exactly one week prior to the petitioner's apprehension. As per the Status Report filed by the State on 13.07.2026, the said medical certificate was found to be genuine. The certificate records that the petitioner was suffering from severe back pain radiating to both lower limbs and had been advised rest.

24. It is the case of the Petitioner that he had stepped out for a medical follow-up, and this version finds contemporaneous support from the record. The earlier prescriptions of 2019, which could not be verified, are too remote in time to discredit the petitioner's case, and the fact that a neighbourhood clinic was no longer functioning at the given address six years later proves nothing against him.

25. In any event, even if the version set out in the FIR is accepted in its entirety, the essential ingredients of promulgation, knowledge, and the requisite consequence remain unestablished. In the absence of these foundational ingredients, no offence under Section 188 IPC is made out.



26. Having held that no offence under Section 188 IPC is made out, it becomes unnecessary for this Court to examine the objection founded on Section 195 CrPC. Any finding on whether the complaint filed by the ACP satisfies the mandate of the said provision would serve no useful purpose in the present adjudication, the prosecution having failed at the anterior stage itself, namely, the establishment of the offence. This Court, therefore, refrains from expressing any opinion on the said issue.

SECTIONS 269, 270 AND 336 OF THE IPC

27. Section 269 IPC punishes one who “*unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life*”. Section 270 IPC punishes the same act when done “*malignantly*”.

28. Applying these provisions in the context of COVID-19, they presuppose, at the very least, an allegation that the accused was infected, knew or had reason to believe that he was so infected, and nonetheless committed an act likely to spread the infection.

29. In *Hla Shwe & Ors. v. State of Maharashtra, 2020 SCC OnLine Bom 959*, which was followed by the Coordinate Bench of this court in *Mohd Anwar (supra)*, the High Court of Bombay had quashed the proceedings for want of precisely such material. In *Sidak Singh Sandhu v. U.T. Chandigarh and Another, 2022 SCC OnLine P&H 4394*, the High Court of Punjab and Haryana held that the failure to conduct a COVID-19 test of the accused was fatal to the prosecution, as there was no basis whatsoever to conclude that the accused was suffering from any infectious disease. High Courts across the country have taken the same view of such prosecutions.



30. The present case stands on an even weaker footing. The petitioner was never tested for COVID-19 — neither at the picket, nor at the police station, nor at any point thereafter. The prosecution does not even allege that he was infected, suspected of being infected, or symptomatic. The only act attributed to the petitioner is that he was walking alone on a public road. In the absence of any material or allegation to establish that the petitioner was carrying an infectious disease, the very foundation for invoking Sections 269 and 270 IPC is absent.

31. Section 336 IPC, which penalises “*an act done so rashly or negligently as to endanger human life or the personal safety of others*”, is equally inapplicable in the present factual matrix. There is no allegation, much less any material on record, to suggest that the petitioner’s conduct endangered any person. Indeed, the chargesheet does not identify a single individual whose life or personal safety was allegedly put at risk. The invocation of Section 336 IPC is, therefore, wholly misconceived, as the foundational requirement of endangerment is conspicuously absent.

32. The other contentions advanced by learned counsel for the petitioner, namely, that the complainant himself acted as the IO, that no public witness was associated with the investigation, that the sole witness statement merely reiterates the *tehrir*, and that Section 41A CrPC was bypassed, relate to the fairness of the investigation and would ordinarily fall for consideration at trial. In light of the conclusions recorded hereinabove, it is unnecessary to adjudicate upon these contentions. Accordingly, this Court expresses no opinion thereon.

33. The present case falls squarely within categories (1) and (3) of *State of Haryana v. Bhajan Lal*, MANU/SC/0115/1992. The allegations in the FIR, even if accepted in their entirety, do not disclose the commission of



any offence, nor does the material collected during the investigation cure that deficiency. The continuation of such a prosecution, more than six years after the incident, would amount to an abuse of the process of the Court, warranting the exercise of the inherent jurisdiction under Section 482 CrPC. The relevant paragraph of the judgment is reproduced hereinbelow: -

“105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.

xxx

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the



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commission of any offence and make out a case against the accused.”

CONCLUSION

34. In view of the foregoing discussion, the present petition is allowed. ***FIR No. 105/2020*** dated 28.03.2020, registered at Police Station Kishangarh, District South-West, for offences punishable under Sections 188, 269, 270 and 336 IPC, along with all consequential proceedings emanating therefrom, including the proceedings pending before the learned Trial Court in “***State v. Anupam Sahu***”, is hereby quashed.

35. Pending application(s), if any, stand disposed of. A copy of this judgment be forwarded to the learned Trial Court for necessary information and compliance.

MADHU JAIN
(JUDGE)

JULY 21, 2026/m