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

Reserved on: 27.07.2026
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\+   **CRL.M.C. 1504/2023 & CRL.M.A. 5719/2023, CRL.M.A. 23371/2025, CRL.M.A. 23372/2025**

DR RAMESH SEN .....Petitioner

Through: Mr. Jai Sahai Endlaw, Mr. Ashish Choudhury, Mr. Anand Kamal, Ms. Prachi Grover and Mr. Abhishek Arora, and Ms. Mehjabin, Advs.

versus

STATE GOVT OF NCT OF DELHI & ORS. .....Respondents

Through: Mr. Amol Sinha, ASC along with Mr. Kshitiz Garg, Mr. Nitish Dhawan, Mrs. Chavi Lazarus and Mr. Anshul Sharma, Advs.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the '*CrPC*') seeks quashing of the chargesheet filed in ***FIR No. 25/2021***, P.S. Special Cell, for offences punishable under Sections 420, 120B and 34 of the Indian Penal Code, 1860 (hereinafter referred to as the '*IPC*') read with Sections 66, 66C and 66D of the Information Technology Act, 2000 (hereinafter referred to as the '*IT Act*'). Challenge is also laid to the order dated 17.08.2022 passed by the learned Chief Metropolitan Magistrate, Patiala House Courts, New Delhi in ***Criminal***

Case No. 7583/2022, whereby cognizance was taken and summons were issued to the Petitioner along with the other accused. The consequential proceedings are also sought to be quashed, insofar as they concern the Petitioner.

FACTUAL MATRIX

2. The proceedings arise from the elections of the Indian Orthopaedic Association (hereinafter, 'IOA') for the year 2020. At the relevant time, the Petitioner was the Vice-President of the IOA and, in terms of its governing framework, was appointed as the Election Officer. Since the elections were held during the COVID-19 pandemic, the process was undertaken through an online voting platform.

3. In the Executive Committee meeting held on 19.07.2020, the appointment of the Petitioner as the Election Officer was accepted and it was decided that the elections would be conducted in accordance with the Constitution and the Blue Book Protocol of the IOA. Prof. Shantharam Shetty, Prof. Anil Kumar Jain and Prof. S.S. Yadav were proposed as "*Election Observers*". Prof. S.S. Yadav subsequently expressed his inability to participate. The election process thereafter proceeded with Prof. Shantharam Shetty and Prof. Anil Kumar Jain being associated as Observers.

4. For conducting the Elections, three vendors, namely Right2Vote, Poll Gateway and M/s Nityam Software Solutions Pvt. Ltd. (hereinafter, '*Nityam*'), were considered. Poll Gateway was not proceeded with. Right2Vote and Nityam made presentations regarding their respective platforms. Right2Vote was initially informed of its selection by an email dated 16.09.2020.

5. The parties differ on the circumstances in which Right2Vote was thereafter replaced. According to the Petitioner, issues arose regarding the payment terms and the suitability of the platform proposed by Right2Vote. It is his case that, after discussions with the concerned office-bearers and the Election Observers, Nityam was engaged and a Memorandum of Understanding (hereinafter, '*MOU*') was executed with it on 29.09.2020. However, it is alleged that Right2Vote had agreed to accept 50% payment in advance and had forwarded a draft agreement, but the Petitioner nevertheless proceeded to engage Nityam without following the prescribed process.

6. The online voting commenced on 01.11.2020 and concluded at 5:00 p.m. on 21.11.2020. The counting was undertaken virtually on 22.11.2020 and the results were declared on the same day. The Petitioner relies upon a communication signed by the contestants recording that they had been informed of the counting process and had no objection to the manner in which the online elections were conducted.

7. After declaration of the results, certain unsuccessful candidates raised objections regarding the conduct of the elections. The objections principally related to the replacement of Right2Vote by Nityam, the process followed for selection of the vendor, the payment made to Nityam, the alleged non-supply of complete election data and the functioning of the electronic voting platform.

8. A complaint dated 07.12.2020 was thereafter submitted to the Cyber Cell by Respondent Nos. 2 to 6. The allegations also formed the subject matter of ***CS(OS) 414/2020*** titled ***Dr. P.V. Vijayaraghavan & Ors. v. Nityam Software Solution Pvt. Ltd. & Ors.***, instituted before this Court, wherein the IOA elections of 2020 were challenged.

9. ***FIR No. 25/2021*** was registered on the basis of the said complaint. The Petitioner was not named as an accused in the FIR. During investigation, however, his role as the Election Officer was examined and the communications and documents relating to the selection of the vendor and conduct of the elections were collected. Upon completion of investigation, the Petitioner was arrayed as an accused in the chargesheet along with Nityam and its Director.

10. The case against the Petitioner, as emerging from the chargesheet, is that he changed the vendor from Right2Vote to Nityam without following due process and without informing the then President of the IOA; selected Nityam despite its alleged failure to satisfy the stipulated criteria; did not clearly communicate the rejection of Right2Vote; made a payment of ₹1,91,750/- to Nityam from his personal account; and did not ensure an independent third-party audit of the election platform.

11. The investigation also examined complaints regarding the electronic voting process. Notices were issued to voters whose votes were shown as having been cast. Thirty-nine persons initially stated that they had not cast their votes. The chargesheet records that access logs were thereafter verified, though the log of one voter could not be traced.

12. The chargesheet further records that certain activity continued on the platform after the prescribed closing time; that 15 votes were received after the deadline, though they were not acknowledged or counted by the system; that six voters were registered after the stipulated date; and that reminder messages continued to be generated after the conclusion of the voting period. It also records that Nityam had not retained the complete SQL database logs.

13. The Election Observers were examined during investigation. Prof.

Shantharam Shetty stated that he had participated as an Observer and that the decision taken by the Petitioner was correct. Prof. Anil Kumar Jain stated that he had not participated in the selection or change of the vendor and had not instructed the Petitioner to obtain a third-party audit.

14. Upon filing of the chargesheet, the learned CMM passed the impugned order dated 17.08.2022. The relevant portion of the order reads as under:

> *"Heard. Record perused.*
> *Considering the overall facts and circumstances of the case I take cognizance of offences punishable u/s 420/120B/34 IPC & Section 66/66C/66(D) IT Act.*
> *There is sufficient material on record to summon accused persons.*
> *Accused persons are stated to be without arrest.*
> *Considering the same let summons be issued against accused Darshan Gesota, Dr. Ramesh Sen and M/s Nityam Software Solutions Pvt. Ltd. through AR returnable on NDOH."*

15. During the pendency of the present proceedings, the parties to ***CS(OS) 414/2020*** entered into a settlement. The settlement was taken on record by this Court on 28.05.2025 and the suit was disposed of in terms thereof. The settlement expressly dealt with the civil and criminal proceedings arising from the IOA elections of 2020, including ***FIR No. 25/2021*** and the proceedings pending before the learned CMM.

SUBMISSIONS ON BEHALF OF THE PETITIONER

16. Learned counsel for the Petitioner submits that the chargesheet treats alleged procedural irregularities in an internal election as criminal offences, without disclosing their essential ingredients. Even if the allegations are

accepted in their entirety, no false representation, deception or dishonest inducement is attributed to the Petitioner. Nor is any person identified as having delivered property pursuant to an inducement by him.

17. Learned counsel submits that the Petitioner, being the Election Officer, was required to interact with the vendors, examine their platforms and make arrangements for conducting the elections. The communications with Right2Vote and Nityam, execution of the MOU and payment to Nityam were disclosed acts undertaken in that capacity. No financial or other benefit is alleged to have accrued to the Petitioner.

18. Learned counsel further submits that the payment of ₹1,91,750/- from the Petitioner's personal account does not establish dishonest inducement or wrongful gain. On the contrary, the amount was paid towards the election expenditure and was subsequently claimed from the IOA. A dispute regarding the propriety of the mode of payment, it is argued, cannot by itself constitute the offence of cheating.

19. As regards conspiracy, it is submitted that no agreement or communication between the Petitioner and Nityam to manipulate the elections has been identified. No material shows that the Petitioner directed the addition, deletion or alteration of votes, voter records or access logs. The technical deficiencies alleged in the chargesheet relate to the platform operated by Nityam and are not connected to any act or instruction of the Petitioner.

20. Learned counsel further submits that no act attracting Sections 66, 66C or 66D of the IT Act is attributed to the Petitioner. There is no allegation of unauthorised access, alteration or copying of data, disruption of the system, misuse of another person's electronic identity or cheating by personation. The

mere use of an electronic platform cannot attract the said provisions.

21. Learned counsel submits that the impugned summoning order neither examines the Petitioner's role nor indicates how the ingredients of the offences are made out against him. It does not distinguish his role as Election Officer from that of Nityam, which operated the platform, and merely records that sufficient material exists to issue summons.

22. Learned counsel for the Petitioner also relies upon the settlement recorded by this Court on 28.05.2025, which culminated in a decree and records the withdrawal of the allegations concerning the IOA elections. It is submitted, on the basis of the settlement and the material placed on record, that Respondent Nos. 2 and 3 had agreed to extend cooperation for quashing of the FIR and the consequential proceedings, and that Respondent Nos. 4 and 6 had withdrawn the allegations made against the Petitioner. It is further submitted that Respondent No. 5 has not entered appearance despite service.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

23. Learned APP for the State opposes the petition and submits that the chargesheet was filed after a detailed investigation into the manner in which the IOA elections were conducted. It is contended that Right2Vote had initially been selected after the presentations made by the vendors and had agreed to accept 50% of the payment in advance. Despite the same, the Petitioner did not proceed with Right2Vote and engaged Nityam without following the procedure approved by the Executive Committee.

24. The State further submits that the material collected during investigation raises questions regarding the eligibility of Nityam, the absence of a clear communication rejecting Right2Vote and the decision-making

process followed by the Petitioner. It is contended that these circumstances cannot be examined in isolation and must be considered along with the personal payment made by the Petitioner and the subsequent technical issues noticed in the election platform.

25. In relation to the settlement dated 28.05.2025, the State submits that it was not a party to the settlement entered into in the civil proceedings. The settlement between the members of the IOA, by itself, cannot conclude the criminal prosecution. Its effect, it is contended, must be assessed with reference to the allegations and the material collected during investigation.

ANALYSIS AND FINDINGS

26. This Court has heard the learned counsel for the parties and perused the material on record.

27. The present controversy does not require this Court to determine whether each decision taken during the IOA elections was administratively correct. The short question is whether the material placed with the chargesheet, taken at its face value, discloses the ingredients of the offences alleged against the Petitioner.

28. The parameters governing the exercise of jurisdiction under Section 482 CrPC are settled. The Court is not to undertake a meticulous examination of the evidence or return findings upon disputed questions of fact. Equally, the mere filing of a chargesheet does not require the Court to permit a prosecution to continue where the allegations and the material collected during investigation do not disclose the offence alleged.

29. In ***State of Haryana v. Bhajan Lal, MANU/SC/0115/1992***, the Supreme Court illustratively identified the categories in which the inherent

jurisdiction may be exercised. The relevant paragraph is reproduced hereinunder:

> *"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.*
> *2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> *3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
> *4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.*
> *5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
> *6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
> *7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

30. The principle is that, while the truth of the allegations is ordinarily a matter for trial, the Court must nevertheless examine whether those

allegations answer the statutory ingredients of the offence invoked.

31. In ***Anand Kumar Mohatta v. State (Govt. of NCT of Delhi), MANU/SC/1281/2018***, the Supreme Court rejected the contention that the jurisdiction under Section 482 CrPC ceases to be available once a chargesheet is filed. The Supreme court while referring to ***Joseph Salvaraj A. v. State of Gujarat, MANU/SC/0719/2011*** observed as under:

> *"16. Thus, from the general conspectus of the various Sections under which the Appellant is being charged and is to be prosecuted would show that the same are not made out even prima facie from the complainant's FIR.* ***Even if the charge-sheet had been filed, the learned Single Judge could have still examined whether the offences alleged to have been committed by the Appellant were prima facie made out from the complainant's FIR, charge-sheet, documents, etc. or not****."*

32. Thus, at this stage, the Court does not test the sufficiency of the evidence for conviction. It examines whether the factual assertions contained in the prosecution material, even if accepted, disclose the commission of the alleged offences by the person sought to be prosecuted.

33. Accordingly, this Court proceeds on the basis of the allegations contained in the chargesheet without examining the correctness of the explanation offered by the Petitioner. The chargesheet must, however, disclose the essential ingredients of the offences and contain material connecting the Petitioner with their commission. Suspicion arising from an administrative decision cannot substitute the statutory requirements of a penal provision.

SECTION 420 OF IPC

34. Since the principal offence alleged is under Section 420 IPC, Sections

415 and 420 IPC are extracted below:

> *"**415. Cheating** — Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'.*
>
> *Explanation — A dishonest concealment of facts is a deception within the meaning of this section."*
>
> *"**420. Cheating and dishonestly inducing delivery of property** — Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

35. For an offence under Section 420 IPC, the prosecution material must disclose deception by the accused, dishonest inducement flowing from such deception and delivery of property or alteration or destruction of a valuable security as a consequence thereof. The dishonest intention must exist when the representation or inducement is made. A subsequent disagreement, breach of procedure or failure to perform an obligation does not, without the element of deception at the inception, constitute cheating.

36. The allegations against the Petitioner are that Right2Vote was initially selected, following which Nityam was engaged without adherence to the prescribed process; the then President of the IOA was not informed; an amount of ₹1,91,750/- was paid from the Petitioner's personal account; and no third-party audit was conducted. These allegations do not disclose any

representation made by the Petitioner which was false to his knowledge at the time it was made. The chargesheet also does not identify any person who was deceived or induced by the Petitioner to deliver property.

37. The payment to Nityam was made by the Petitioner himself. The mode of payment and the time at which reimbursement was sought may be examined within the administrative or accounting framework of the IOA. These circumstances, however, do not establish that any person delivered property on account of deception practised by the Petitioner. The chargesheet also does not allege that any part of the payment was returned to the Petitioner or that he obtained a financial benefit from Nityam.

38. The gravamen of the allegation is, therefore, the manner in which the Petitioner exercised his authority as the Election Officer. Even assuming that the change of vendor was not preceded by the degree of consultation expected under the internal procedure of the IOA, such departure does not, without deception and dishonest inducement, constitute an offence under Section 420 IPC. Criminality cannot be inferred merely from the allegation that a different administrative course ought to have been adopted.

39. Although the chargesheet contains a general assertion that the acts attributed to the accused caused financial and reputational loss to the IOA, it neither identifies nor particularises the financial loss allegedly occasioned by the Petitioner. More importantly, it does not disclose that any person was induced, by reason of deception practised by the Petitioner, to deliver any property or to alter or destroy any valuable security. Nor does the chargesheet allege that the Petitioner derived any financial benefit or other wrongful gain from Nityam. The essential ingredients of deception, dishonest inducement and delivery of property, which form the foundation of an offence under

Section 420 IPC, are therefore not disclosed qua the Petitioner.

SECTION 120B & 34 IPC

40. The prosecution has also invoked Section 120B IPC, which provides punishment for criminal conspiracy, and Section 34 IPC, which attributes joint liability for a criminal act done by several persons in furtherance of their common intention. The relevant provisions are reproduced hereinbelow:

> ***120A. Definition of criminal conspiracy.*** *— When two or more persons agree to do, or cause to be done, —*
> *(1) an illegal act, or*
> *(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:*
>
> *Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.*
>
> *Explanation— It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.*
>
> ***34. Acts done by several persons in furtherance of common intention*** *—When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone."*

41. An express agreement is seldom available in cases of conspiracy and may be inferred from proved circumstances. The circumstances must, however, indicate a meeting of minds to commit the illegal act alleged. Association between the accused, an official relationship or participation in an otherwise lawful transaction is not sufficient unless the material points towards an agreement to commit the offence.

42. In ***Yogesh Gupta v. Central Bureau of Investigation, 2025:DHC:295***,

this Court emphasised that the offence of conspiracy rests upon an agreement between two or more persons to commit an illegal act. A person cannot be implicated merely by reason of the position held by him. The prosecution material must disclose his participation in the alleged agreement and the requisite criminal intent.

43. In the present case, no communication between the Petitioner and Nityam has been identified which suggests an agreement to manipulate the elections. No instruction has been attributed to the Petitioner to alter any vote, add or delete any voter, modify the access logs, keep the voting system operational beyond the prescribed time or change the declared result. The chargesheet also does not refer to any financial arrangement between the Petitioner and Nityam other than the disclosed payment made towards conducting the elections.

44. The execution of the MOU and the payment made to Nityam were acts performed openly in connection with the election process. These circumstances may be relied upon to question the propriety of the selection of the vendor, but do not, without further material, establish an agreement to commit cheating or a computer-related offence.

45. The statements of the Election Observers also do not disclose a conspiracy. Prof. Shantharam Shetty stated that the decision taken by the Petitioner was correct. Prof. Anil Kumar Jain stated that he had not participated in the selection or change of the vendor. The latter statement may indicate that he was not consulted in the manner asserted by the Petitioner; it does not disclose an agreement between the Petitioner and Nityam to commit an offence.

46. Section 34 IPC does not create a substantive offence. Its application

requires a criminal act done by several persons in furtherance of their common intention. In the absence of material showing a shared criminal intention or connecting the Petitioner with the technical acts attributed to Nityam, Section 34 IPC cannot sustain the prosecution against him. The allegations, therefore, do not disclose an offence under Section 120B or the applicability of Section 34 IPC qua the Petitioner.

OFFENCES UNDER THE IT ACT

47. The Petitioner has also been charge-sheeted under Sections 66, 66C and 66D of the IT Act. The said provisions are reproduced hereinbelow:

> *"**66. Computer related offences** — If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both."*
>
> *"**66C. Punishment for identity theft** —Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.*
>
> *"**66D. Punishment for cheating by personation by using computer resource**—Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees."*

48. Section 66 applies when a person dishonestly or fraudulently commits an act falling within Section 43 of the IT Act. Section 43, *inter alia*, concerns unauthorised access to a computer resource, copying or extraction of data, introduction of a computer contaminant, disruption of a computer system, denial of access and alteration or destruction of information. The chargesheet

does not allege that the Petitioner accessed or operated the voting platform without permission, copied or altered any data, introduced any contaminant, disrupted the system or denied access to an authorised user.

49. Section 66C is equally inapplicable on the allegations contained in the chargesheet. There is no allegation that the Petitioner used the electronic signature, password or any unique identification feature of another person. Likewise, no person is alleged to have been impersonated by the Petitioner through a communication device or computer resource so as to attract Section 66D.

50. The invocation of the IT Act against the Petitioner appears to proceed from the fact that the elections were conducted through an electronic platform. The use of a computer resource as the medium of the election does not, by itself, attract the penal provisions of the IT Act. A specific act falling within the provision must be attributed to the accused. No such act is identified against the Petitioner.

51. The chargesheet records that 39 voters initially denied having cast their votes. Upon verification, access logs were traced in respect of 38 voters, while the log relating to one voter could not be located. It further records the receipt of 15 votes after the stipulated deadline; however, the said votes were neither acknowledged nor counted by the system. The chargesheet also notes that six voters were registered beyond the prescribed date, reminder messages continued to be generated thereafter, and Nityam had not preserved the complete SQL database logs.

52. The aforesaid material may raise issues concerning the configuration, operation and record maintenance of the electronic platform. It does not, without a link to the Petitioner, establish that he caused or directed the

technical acts in question. The chargesheet contains no communication, command, access record or witness statement attributing the operation of the platform to the Petitioner.

53. The non-availability of one access log or the non-preservation of the complete SQL database cannot, by itself, supply the missing link. The charge-sheet attributes the maintenance of the platform and its technical records to Nityam. There is no material to show that the Petitioner had access to the back-end system, controlled the database or directed the vendor not to preserve the logs.

54. These observations are confined to the role of the present Petitioner. This Court is not examining the explanation offered by Nityam or expressing any opinion on the case against the remaining accused. The material concerning the operation of the platform must be considered in their proceedings independently and in accordance with law.

SUMMONING ORDER

55. The learned CMM, by the impugned order, took cognizance of all the offences and summoned the Petitioner, the Director of Nityam and Nityam itself. The order records that the file had been perused and that there was sufficient material to summon the accused. It does not advert to the distinct role of the Petitioner or indicate the material which attracted Sections 420, 120B and 34 IPC and Sections 66, 66C and 66D of the IT Act against him.

56. It is settled that an order issuing summons need not contain an elaborate discussion of the evidence. It must, however, reflect that the Court has examined the allegations, the material placed before it and the ingredients of the offences for which the person is summoned. In ***M/s Whitefields Overseas***

Ltd. v. State of NCT of Delhi, 2025:DHC:10403, this Court reiterated that issuance of summons is a serious matter and that the summoning order must reflect due application of mind to the facts and the law applicable thereto.

57. The requirement of application of mind cannot be reduced to a ritualistic expression that sufficient material exists. Where different accused are alleged to have performed different acts, the order must indicate, even briefly, the basis on which each person is called upon to face the prosecution. This is particularly necessary where the offences invoked contain distinct and specific ingredients.

58. In the present case, the order does not distinguish between the Petitioner, who acted as the Election Officer, and Nityam, which operated the electronic platform. It does not identify any representation made by the Petitioner, any agreement entered into by him to commit an offence, any computer resource accessed by him, any electronic identity used by him or any act of personation. The impugned order, therefore, does not disclose consideration of the essential ingredients of the offences qua the Petitioner.

EFFECT OF THE SUBSEQUENT SETTLEMENT

59. During the pendency of the present petition, the parties to ***CS(OS) 414/2020*** entered into a comprehensive settlement. The settlement was taken on record by this Court on 28.05.2025 and the suit was disposed of in terms thereof. The original complainants agreed to extend cooperation, including a No Objection Affidavit, for seeking quashing of ***FIR No. 25/2021*** and the consequential proceedings.

60. The State is correct in contending that a settlement between private parties does not, by itself, require termination of every criminal prosecution.

The Court must independently examine the nature of the offence and the material collected during investigation. The settlement cannot substitute the absence or presence of the statutory ingredients.

61. In the present case, the conclusion that the offences are not disclosed against the Petitioner does not rest solely upon the settlement. It follows from the chargesheet itself. The settlement is nevertheless a relevant subsequent circumstance. It is part of a judicial order and decree, is not disputed, and records the withdrawal of the allegations by the original complainants.

62. The order dated 28.05.2025 and the settlement incorporated therein constitute material of an unimpeachable character. In ***Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330***, the Supreme Court recognised that material which is sound, reasonable and of sterling quality, and which cannot justifiably be refuted, may be considered while exercising jurisdiction under Section 482 CrPC. The settlement and the order recording it satisfy this limited threshold.

63. In this backdrop, the material placed on record shows that Respondent Nos. 2 and 3 had, under the settlement, agreed to cooperate in seeking quashing of the FIR and the consequential proceedings. Respondent Nos. 4 and 6 had also withdrawn the allegations made against the Petitioner, while Respondent No. 5 has not entered appearance despite service. These developments further reflect that the underlying dispute between the private parties no longer survives qua the Petitioner.

<u>CONCLUSION</u>

64. The chargesheet does not disclose any false representation, deception or dishonest inducement by the Petitioner. It does not identify any person who delivered property on account of an inducement made by him. There is no

material showing an agreement between the Petitioner and Nityam to manipulate the elections or any criminal act done in furtherance of a common intention.

65. No unauthorised access to a computer resource, alteration of data, use of another person's password or electronic identity, or cheating by personation has been attributed to the Petitioner. The technical deficiencies referred to in the chargesheet have not been connected to any act, instruction or access attributable to him.

66. At its highest, the prosecution material reflects a dispute regarding the exercise of authority by the Petitioner as the Election Officer and the procedure followed in appointing the vendor. In the absence of material disclosing deception, conspiracy, common intention or a computer related act falling within the IT Act, the said dispute cannot sustain a criminal prosecution against the Petitioner.

67. The case qua the Petitioner, therefore, falls within the first category identified in ***Bhajan Lal (supra)***, namely, where the allegations, accepted in their entirety, do not prima facie constitute the offences alleged. Requiring the Petitioner to face trial in such circumstances would amount to an abuse of the process of Court.

68. Accordingly, the petition is allowed. The chargesheet filed in ***FIR No. 25/2021***, P.S. Special Cell, is quashed insofar as it concerns the present Petitioner. The order dated 17.08.2022 passed by the learned Chief Metropolitan Magistrate, Patiala House Courts, New Delhi in ***Criminal Case No. 7583/2022***, and all consequential proceedings emanating therefrom, are also quashed qua the Petitioner. Pending application(s), if any, also stand disposed of.

69. It is clarified that the observations made in the present judgment are confined to the case of the Petitioner. Nothing stated herein shall be construed as an expression on the merits of the proceedings against the remaining accused, which shall be considered independently and in accordance with law.

MADHU JAIN
(JUDGE)

AUGUST 7, 2026/b/m