2025:DHC:9184

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

% ***Date of decision: 10th October, 2025***

\+ **W.P.(CRL) 2349/2025 & CRL.M.A. 30251/2025**

MAHESH SHRIVASTVA @ JEEVA
S/o Sh. Brij Kishore .....Petitioner
Through: Mr. Ashish Upadhyay & Mr. Pradeep Kumar Mishra, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)
Through Additional Deputy Commissioner of Police-I,
South District, Delhi .....Respondent
Through: Mr. Yasir Rauf Ansari, ASC with Mr. Alok Sharma, Advocate.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T ***(oral)***

1. Petition under Article 226 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S'*) has been filed on behalf of the **Petitioner/Mahesh Shrivastva @ Jeeva** for quashing of the **Order dated 15.07.2025** in Case No. 103/2025 of the Hon'ble Lieutenant Governor of Delhi, upholding the Externment Order dated 24.05.2025 (*with a partial modification in the period of externment*) of the Additional Deputy Commissioner of Police-I, South District, Delhi.

2. **Brief facts** are that the Petitioner was born on 02.12.1982 and since

1988, is residing at *S-12/121, Indira Gandhi Camp, Near Khanna Market, Lodhi Colony, New Delhi.* He got married to Ms. Rekha in the year 2005 and has been blessed with two children, namely, Umesh Srivastav and Updesh Srivastav, aged 17 years and 14 years respectively. Elder son is studying in Class XI while the younger son is a student of Class IX and has represented India in Kabbadi (Sports Activities), Junior Category held at Nepal.

3. The Petitioner further submits that he has faced trial in eight Criminal Cases till 2021 and has been acquitted in all the cases, except in one case in which he pleaded guilty and deposited the fine of Rs.500/-.

4. The past, however, has continued to haunt the Petitioner and the Police Officials, without any cause registered Kalandra under Section 107/151 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*) but those proceedings were also closed.

5. The Petitioner has joined the main stream of the society with the passage of time and is in regular employment. From 2018 till March, 2020, he was employed in a shop situated in Tisra Pushta, Gali No. 9, Khajuri where the Car Seat Covers etc. manufactured. Post lockdown due to Covid, there was no business. Thereafter, since 23.10.2022, he has been employed with the *New Concept Services* having its Office at Khasra No. 54/1, 54/3, 54/7, IInd Avenue, Bandh Road, Amin Farm, Chandan Hola, New Delhi-110074, as Event Supervisor and has continued in employment with no involvement in any criminal activities.

6. The Petitioner states that he is living in vicinity where number of crimes take place and he has rendered valuable assistance to the Police as *the informer* and helped them in solving various cases, which eventually

has led to the enmity of the Petitioner with other criminals who have developed hatred against him, as the entire setup of gambling in the vicinity, has been closed by the Police Officials, on account of the inputs of the Petitioner. All this has led to issues with some Police Officials and the Petitioner has always found himself to be in a tough spot with threats extended to involve him in false Criminal Cases.

7. For the last five years i.e. from 2018-2023, he has been living a peaceful life. There are some antisocial elements, who have ill will and hostile feelings against him. He has been falsely implicated in the year 2023 in FIR No. 195/2023 under Section 324/34 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*), registered at Police Station Lodhi Colony. It is claimed that this false implication is on account of the Petitioner's endeavour for better future.

8. It is now becoming a challenge for him to provide information as the persons, who got arrested because of the information conveyed by him, are having enmity. The Petitioner sensing this threat, had made first Representation to the Senior Police Officials on 05.10.2023 about his apprehension of being falsely implicated in a Criminal Case. He was aware that he can be implicated merely on the Statement of any person or even Police Officials, without appreciating the support given by him to the Police Officials.

9. On 26.11.2023, he was again implicated in false FIR of Arms Act. The Police Officials of Special Staff forcefully took him in their Car while he was purchasing Vegetables and then a Knife was planted on him. Even three-four calls at 112 were made by his son, Umesh from his Mobile Number 8929942151, who informed the Police that his father has been

apprehended/kidnapped by some unknown persons. He has been admitted to Bail by the learned Metropolitan Magistrate. Several criminals sell substance/narcotics in the vicinity about which the Petitioner has informed the Police Officials, which again has triggered the enmity of the Petitioner with the local criminals, as well as, the Police Officials, who are assisting in running this syndicate.

10. On 17.03.2024 at about 07:00 p.m, three unknown persons in Wangon R bearing Registration No. DL 6C S 2929 came inside the street on which the house of the Petitioner is situated and sought information about him. On the Petitioner revealing his name, one person while pulling his shirt, stated "*Aaj to yeh lamba jayega….le chalo isko*". All these acts are duly recorded in the CCTV footage. In the meanwhile, some neighbours collected and started asking those persons for their Identity Card. After they saw that number of persons have gathered on the spot and the Petitioner also made a call at No. 112. Those persons claimed that they were Police Officials and threatened that *"Agli Baar teri……main Goli Marenge" "Dekte Hai Kaun Bchata Hai."* They have even threatened the elder son of the Petitioner of false implication in the criminal case.

11. The Petitioner lodged a Complaint through E Mail on 19.03.2024 with the Commissioner of Police, DCP South, Police Station Hauz Khas, ACP, Police Station Defence Colony and SHO, Police Station Lodhi Colony, New Delhi with evidences, but no action was taken. However, Notice under Section 50 of Delhi Police Act dated 16.04.2024 for Externment proceedings was received by the Petitioner and he regularly attended the proceedings and filed his detailed Reply.

12. Subsequently, SI Prakash Meena, who had earlier visited his house,

started demanding gratification from the Petitioner, through contacts and stated that he would implicate the Petitioner in a false criminal case if he did not agree. The Petitioner, however, could not accede to such demands as he was not having financial resources being employed in a small Firm, on a monthly salary.

13. Again on 14.11.2024, at about 09:15 p.m., Sub Inspector Parkash Meena and three other Police Officials forcibly entered into his house and kicked his minor son and started abusing him and gave threats. They snatched his mobile, which scared him. The minor son was forced to remove his T Shirt and was abused. The son of the Petitioner informed that his father and mother were not at home, but then they pushed him outside the house. They even misbehaved with him outside the house, which caused him a lot of mental trauma. After the Petitioner was informed by the neighbours, he immediately rushed back to his home but by that time, the Police Officials had left.

14. He called Sub Inspector Parkash Meena late in the evening, who asked him to meet them. He enquired to which they stated *"tujhe bada wakil banana hai….siddha aa ja nahi to is baar lambe case main dallonga tujhe aur tere bete ko".* He again made a Complaint dated 19.11.2024 through E Mail along with the Videos of the incident to the Senior Police Officials but no action was taken. He filed a Writ Petition bearing *W.P.(Crl.) No. 3803/2024* and this Court. *Vide* Order dated 05.12.2024 the Commissioner of Police was directed to treat the Writ Petition as a Representation and to decide the matter expeditiously.

15. The allegations against the Petitioner as made by the Respondent, are that the SHO, Lodhi Colony reported that the Petitioner has been engaging

himself in the commission of illegal acts and criminal activities. His illegal activities and movements in the NCT of Delhi, are calculated to cause alarm, danger, harm and disturbing societal peace. He is a potential source of harming public at large, which conclusion is based on the aforementioned ten FIRs. It was further stated that the Petitioner's presence in the NCT of Delhi, was hazardous to the community.

16. The Externment Proceedings were initiated on 16.04.2024 as per the Provisions of the Delhi Police Act, 1978. The learned Additional Deputy Commissioner of Police-I, South District, Delhi by its Order dated 24.04.2025, directed the Petitioner to remove himself beyond the limits of NCT of Delhi for a period of one years within seven days from the date of Order. He was further directed not to enter or return to the limits of NCT of Delhi, during that period, without written permission of the competent authority.

17. The impugned Order dated 24.04.2025 of Additional Deputy Commissioner of Police-I, South District, Delhi was challenged before the Hon'ble Lieutenant Governor of Delhi but the Externment Order was upheld *vide* Order dated 24.05.2025, though the period of externment was reduced to eight months.

18. The Petitioner submits that he is in regular employment, as is evident from his Form No. 26 for Financial Year 2024-2025, issued by his employer. Despite the fact that he is not a criminal and is well settled in life, the Order dated 24.04.2024 for Externment for a period of one year, has been passed.

19. This Order was challenged by way of Appeal, but the Hon'ble Lieutenant Governor *vide* Order dated 15.07.2025 has upheld the Order of

Externment. However, the period has been reduced to eight months instead of one year.

20. Since the date of Order i.e. 24.04.2025, the Petitioner is not residing in Delhi and has to apply for leaves in his Office. Unfortunately, in addition to the unpaid leaves, the Petitioner's family is facing another medical urgency as the elder son aged about 19 years of the Petitioner, is suffering from some infection and the doctors have advised major surgery. He was taken to Safdarjung Hospital and presently, is undergoing treatment in Holy Family Hospital as the Government Hospital could not provide any relief to the son from his suffering. He requires immediate medical attention for which some major expenses are required to be met.

21. The Externment Order is ***challenged on the grounds*** that it has been made without proper application of mind, in a totally mechanical manner. It has not been considered by the Lieutenant Governor of Delhi that an independent analysis of the allegations or procedural irregularities was required to be considered independently in the Appeal.

22. The Respondent has failed to establish any immediate danger or threat by the Petitioner to public safety and there is no substantive evidence to this effect.

23. Reliance is placed on *Prem Chand vs. Union of Indian*, 1981 (1) SCC 639 wherein it was observed that mere police apprehension is not enough and there must be a clear and present danger based upon credible material which makes the movements and acts of the person in question alarming or dangerous or fraught with violence.

24. The impugned Order lacks reasonable foundation as it does not demonstrate these pertinent facts while making the Order. It has also not

been demonstrated that the witnesses, if any, were indeed unwilling to testify against the Petitioner. Moreover, the proceedings were conducted in a biased and arbitrary manner without following due process of law and giving opportunity to the Petitioner, to defend himself.

25. The Externment Order has not only restricted his ability to earn the livelihood but has also prevented him from taking care of his ailing parents. Moreover, the facts germane to Section 47 of the Delhi Police Act, have not been satisfied. In the light of the livelihood and the previous conduct of the Petitioner, it is evident that he is not likely to commit an offence and does not pose a threat to Public Order.

26. The Reply filed by the Petitioner at the time of hearing, has not been considered. He claims that he never committed any alleged offence nor was he involved in any manner, but has been implicated falsely in the alleged offences. He has been enlarged on Bail in all the cases. The Petitioner claims that he is a respectable citizen of society and is a sole bread earner in the family. He is innocent and has deep roots in the society. If the Externment Order is not quashed, his freedom and liberty would be curtailed and his family would come to starvation as they have no other source of income.

27. A prayer is, therefore, made that the Impugned Order dated 15.07.2025 passed in Complaint Case No. 103/2025 by the Hon'ble Lieutenant Governor of Delhi, may be set-aside.

28. ***Status Report*** has been filed on behalf of the Respondent wherein it is asserted that the Petitioner is a desperate criminal having involvement in different types of serious 11 cases, which include Abduction, Extortion, attempt to commit culpable homicide, hurt by dangerous weapon, assault,

which are punishable under Chapter XVI of IPC, Gambling Act, Delhi Excise Act and Arms Act.

29. The Respondent has claimed that he has been continuing his criminal activities and engaging himself in the commission of offence and his criminal activities are a great menace to the society. He is so desperate and dangerous that his presence in the NCT of Delhi or in any part thereof, is hazardous to the community.

30. Additional Deputy Commissioner of Police-I, South District, Delhi, after analyzing the material and considering the proposal carefully, initiated the proceedings for Externment. Due procedures were followed and the Notice under Section 50 Delhi Polic Act, was got served upon the Petitioner, who appeared before the Additional DCP on 30.04.2024. He was informed about the general nature of material allegation against him in vernacular, to which he pleaded guilty and claimed trial. He submitted his detailed Reply to the Notice under Section 50 of the Delhi Police Act and also produced his surety. He was also informed about his right to engage a counsel.

31. The Prosecution examined two witnesses, namely, *PW-1, Inspector Rajesh Kumar,* SHO, Police Station Lodhi Colony, who deposed about the criminal character of the Petitioner because of which no one dares to depose against him. There is a threat to the person and property of such persons at the hands of the Petitioner. He is a habitual offender and therefore, his externment for two years, is sought.

32. *PW-2, Head Constable, Rinku* MHC(R) of Police Station Lodhi Colony, proved the cases registered against the Petitioner, as per the record. The opportunity was given to the Petitioner, to cross-examine both the

Prosecution witnesses, which he failed to avail.

33. On several occasions, the Petitioner was advised to engage a counsel. A written Notice dated 30.04.2024 was also given to him to defend the case through a lawyer at his cost or to approach the Delhi Legal Services Authority, Saket, to engage a counsel free of cost, in case he was not in a position to engage a counsel.

34. During the course of Externment proceedings under Section 47 of the Delhi Police Act, the Petitioner also got involved in another *FIR No. 25/2024 dated 12.01.2024 under Section 188 IPC*, registered at Police Station Lodhi Colony where the Petitioner was booked for not getting the police verification done of his tenant. He was fined by the learned JMFC, on 11.03.2024.

35. *Supplementary Notice under Section 50 of Delhi Polic Act, 1978* dated 22.04.2025, was issued to him and he was directed to file the written Reply, but he did not do so. Several opportunities were given to the Petitioner to produce his defence witnesses but he stated that he has no witnesses in his defence.

36. The Petitioner addressed his arguments in person and admitted his previous involvements. He claimed that he was living peacefully and normally and earning his livelihood. He prayed for an opportunity to reform himself for leading a peaceful life and promised not to indulge in any criminal activities in future and to maintain peace in society.

37. After hearing arguments and going through the records, the learned Additional DCP, in view of the evidence, the criminal record of the Petitioner, his activities, testimony of the Prosecution witnesses, in-camera statements and other evidence led during the proceedings, concluded that he

was a criminal who is not likely to reform his way of life till stringent measures are taken against him and his activities in the area of NCT of Delhi are calculated to cause harm, danger and alarm to the respectable citizens. Moreover, unless he is weaned from his present Company, he is not likely to reform himself and his continuous presence in the area leads to alarm and danger and is a constant source of tension and disturbance in the minds of law-abiding citizens of the area. The offences committed by him are of dangerous nature and the in-camera statements of the witnesses, which have been placed on record, indicate that these witnesses were unwilling to testify against him. He is also the Bad Character (B.C.) of Bundle-A of Police Station Lodhi Colony, Delhi.

38. Considering all the evidence, the Order of Externment for a period of 12 months, was made under Section 47 of Delhi Police Act, by the learned Additional DCP.

39. The Appeal preferred before the Hon'ble Lieutenant Governor of Delhi, against the Order of Externment, stands dismissed. During the pendency of the proceedings before the Hon'ble Lieutenant Governor of Delhi, the Petitioner had approached this Court for interim relief since his son was admitted in the Hospital. It is submitted that there is no merit in the present Petition, which is liable to be dismissed.

Submissions heard and the record perused.

40. The Petitioner has challenged the Externment Order dated 24.05.2025 upheld by the Hon'ble Lieutenant Governor of Delhi *vide* Order dated 15.07.2024, on various grounds, namely, that the impugned Order lacks clear and cogent material justifying any imminent threat to public safety merely on the basis of stale FIRs, and also that principles of natural

justice have not been followed insomuch as no opportunity was given to participate effectively in the proceedings or to be represented through a legal counsel.

41. Before adverting to the merits of the Case, it is pertinent to observe that the scope of judicial review by a Writ Court of a quasi-judicial Orders, is limited, as explained by the Apex Court in the case of *State of NCT of Delhi vs. Sanjeev alias Bittoo*, (2005) 5 SCC 181. It was noted that an Order made in exercise of power whether *legislative or administrative*, can be set-aside only if there is manifest error in the exercise of such power or it is manifestly arbitrary. These principles can be grouped in two categories, namely, (i) *failure to exercise a discretion* and (ii) *excess or abuse of discretionary power*, which both are not mutually exclusive. *However, the Courts must be slow to interfere in the administrative functions unless the decision is tainted by the aforesaid vulnerabilities.*

42. The most significant principle to consider for the valid exercise of discretion is *'Reasonableness'*, which implies that the person must have drawn his attention to all the pertinent aspects, which he is bound to consider, which are relevant and also must excludes such factors, which are irrelevant.

43. The other aspect of discretion has been explained by Lord Diplock in *CCSU Case*, (1984) 3 All ER 935, which are the principles of '*illegality', 'procedural impropriety' and 'irrationality'*. 'Irrationality, which is another aspect of due exercise of discretion, has been termed as '*Wednesbury reasonableness'*, means a decision which is so outrageous in its defiance of logic or of accepted moral standards that no reasonable person, who has applied his mind to the question, could have arrived at.

44. Similar principles have been noted by the Apex Court in the Case of *Union of India vs. G. Ganayutham*, (1997) 7 SCC 463 wherein it was held that the Judicial Review is confined not only to the decision itself, but also any infirmity, which may lie in the decision making process.

45. With these observations, the present Order of Externment under Section 47 of the Delhi Police Act, made against the Petitioner, may be considered.

46. The *Externment Order* is not a judicial adjudication of an offence committed by an individual, but it lies in the realm of law and Order in the context of escalation of crime, wherein restrictions are clamped on an individual, which in normal times may appear unreasonable. The Externment Order is an extraordinary measure limiting and restricting the movement of an individual and such Orders must not be made in a mechanical manner. The consequences of such Order can not only prevent a person from staying in his house along with his family members during such period, but may also results in deprivation of his right to livelihood. Recourse to this Section must be made only as an extraordinary measure in case the circumstances so merit, as has been held in the *Case of Deepak vs. State of Maharashtra*, 2022 SCC OnLine SC 1999.

47. The main observations in the Externment Order to reach the conclusion that the Petitioner is a desperate and dangerous person, are as under:

> *"Keeping in view the evidence brought on file, i.e. notice, record of his criminal activities, prosecution witnesses, in-camera statements and other evidence adduced during the course of proceedings, I have no*

hesitation in concluding that he is a criminal who is not likely to reform his way of life till stringent measures are taken against him and his activities in the area of NCT of Delhi are calculated to cause harm, danger and alarm to the respectable citizens. Moreover, unless he is weaned of his present company, he is not likely to reform himself and start a normal life, his continuous presence in the area leads to alarm and danger, constant source of tension and disturbance in the minds of law-abiding citizens of the area who have the right to lead a peaceful life. In my opinion this case is well within the scope of Section 47 of the Delhi Police Act, 1978 and he is a fit person to be externed from the limits of the NCT of Delhi."

48. Section 47 of the Delhi Police Act, reads as under:-

"47. Removal of persons about to commit offences-

Whenever it appears to the Commissioner of Police-

(a) that the movements or acts of any person are causing or are calculated to cause alarm, danger of harm to person of property; or

(b) *that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, Chapter XVL, Chapter XVII or Chapter XXII of the Indian Penal Code (45 of*

1860) or under Section 290 or Sections 489A to 489E (both inclusive) of that Code or in the abetment of any such offence: or

(c) *that such person-*

(i) *is so desperate and dangerous as to render his being at large in Delhi or in any part thereof hazardous to the community; or*

(ii) *has been found habitually intimidating other persons by acts of violence or by show of force; or*

(iii) *habitually commits affray or breach of peace of riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or*

(iv) *has been habitually passing indecent remarks on women and girls, or teasing them by overtures,*

and that in the opinion of the Commissioner of Polic witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property, the Commissioner of Police may, by order in writing duly served on such person, or by beat of drum or otherwise as he thinks fit, direct such person to so conduct himself as shall seem necessary in order to

prevent violence and alarms or to remove himself outside Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or part thereof, as the case may be, from which he was directed to remove himself.

Explanation- *A person who during a period within one year immediately preceding the commencement of an action under this Section has been found on not less than three occasions to have committed or to have been involved in any of the acts referred to in this Section shall be deemed to have habitually committed that act."*

49. The aforesaid Section defines the circumstances in which an Order of Externment may be made, which are as under:-

(i) that the movement or the· acts of any person is calculated to cause alarm, danger or harm to person or property; or

(ii) that there are reasonable grounds that he would be engaged in the commission of an offence; or

(iii) that he so desperate and dangerous that his being at large would be hazardous to the community; or

(iv) that he is found habitually intimidating to other persons or is habitually committing affray or breach of peace; or is habitually passing indecent remarks on women.

50. The facts of the present Case and the evidence led therein, may now be considered if any of these grounds are established justifying the impugned Order.

51. The entire case of the Respondent rests on the 11 FIRs that had been

registered against the Petitioner, which are as under:

S.No.	FIR No.	Under Section	Police Station	Status
1.	192/2000	354 IPC	Lodhi Colony	Acquitted
2.	511/2001	61/1/14 Excise Act	Lodhi Colony	Acquitted
3.	69/2004	61/1/14 Excise Act	K.M. Pur	Acquitted
4.	339/2004	25 Arms Act	K.M. Pur	Acquitted
5.	33/2006	308/323/24 IPC	Lodhi Colony	Acquitted
6.	186/2006	363/364-A/384/34 IPC	Lodhi Colony	Acquitted
7.	365/2014	323/341/506/34 IPC	Lodhi Colony	Acquitted
8.	141/2018	12/9/55 Gambling Act	Lodhi Colony	The Petitioner appeared without any legal aid an was advised to deposit the fine of Rs.500/-.

52. The perusal of the list of the cases, shows that one Case of 354 IPC was registered in 2000 and two Cases of Section 61/1/14 of Excise Act in

the year 2001 and 2004; another Case of 25 Arms Act was registered in the year 2004. Thereafter, it was in the year 2006 that two Cases under Section 363/364-A/384/34 of IPC, were registered.

53. Thereafter, the next FIR got registered in the year 2014 under Section 323/341/506/34 IPC. After a gap of four years, one case of gambling under Section 12/9/55 of Gambling Act, was registered in the year 2018, in which he pleaded guilty and deposited a fine of Rs.500/-.

54. Thereafter, there was a lull period for five years till 2023 when an FIR under Section 324 and another FIR under Section 25 of the Arms Act, got registered. The Petitioner stands acquitted in all the cases that were registered till the year 2014.

55. It is interesting to note that there were two Cases registered in the year 2004, followed by two Cases in 2006 and thereafter, one Case in 2014 and then one Case in 2018. Some of the offences are under the Excise Act and Gambling Act. It is significant to observe the gap between the years during which, the offences have allegedly have been committed and also the nature of the offences for which, these FIRs were registered.

56. Pertinently, all the Cases have ended in acquittal and there is nothing on record to show that the acquittal were on account of any threat to the witness or for any act attributable to the Petitioner. There has to be proper evidentiary material from where a satisfaction could be drawn that any of Clauses as mentioned in Section 47 of the Delhi Police Act, 1978, are established leading to an inference of apprehension regarding the safety and property of the persons living therein the area.

57. The two witnesses, namely, PW-1, Inspector Rajesh Kumar, SHO, Police Station Lodhi Colony and Head Constable, Rinku No. 319/SD,

MHC(R) of Police Station Lodhi Colony, have been examined and the only evidence which has been brought on record, are the list of Criminal Cases that have been registered over a period of 18 years against him. Merely because some Cases got registered against the Petitioner, would not suffice or justify the issuance of the Externment Order.

58. No evidence has been produced to show that he is a person so desperate or dangerous that he is *hazardous to the community* if allowed to be at large, or *is engaged in commission of an offence*, or that his *movements or acts are calculated to cause alarm, danger or harm to the person or property*. Moreover, merely from the list of Cases, it cannot be concluded that he is *habituated* to intimidate or commit affray or breach of peace or of passing indecent remarks on the women.

59. Term '**Habitual**' has been explained in **Explanation 2 of Section 47 of the Delhi Police Act, 1978,** which reads as under:-

> *"Explanation: A person who during a period within one year immediately preceding the commencement of an action under this Section has been found on not less than three occasions to have committed or to have been invoked in any of the acts referred to in this Section shall be deemed to have habitually committed that act."*

60. From the very definition of the word '*habitual*,' it is evident that in the year preceding to the commencement of an action, it must be found that on not less than three occasions, the person had committed or was involved in any of the acts referred to in this Section. Pertinently, as per the case of the Respondent itself, there is no such incident reported in the last preceding year. Pertinently, there is a reference to two FIRs, namely,

195/2023 under Section 324/34 IPC registered at Police Station Lodhi Colony and FIR No. 297/2023 under Section 25 of Arms Act registered at Police Station Lodhi Colony.

61. The Respondent has vehemently contended that even in the year 2024 *vide* FIR No. 26/2024 under Section 188 IPC, Police Station Lodhi Colony, was registered. However, it is not in dispute that it was only in respect of the non-verification of the tenant inducted by the Petitioner in his premises. It's a technical offence and in no way reflects the criminal propensity of the Petitioner.

62. It is further noted in the Externment Order that the Applicant was a Bad Character (B.C.) of Bundle- A of Police Station Lodhi Colony, Delhi. However, this fact of he being a *bad character* was not mentioned in Notice under Section 50 that was served upon him and has not been given any opportunity to counter the same. Moreover, no details of the Order by which he was declared a Bad Character or the circumstances in which he was put in Bundle-A, has been explained. It is evident from the perusal of the Impugned Order that this fact has been mentioned incidentally only to make out a Case, where none exists. There is nothing on record to show that he is indulging in continuous and persistent activities, which are hazardous to the society.

63. In the case of *Prem Chand vs. Union of India*, 1981 (1) SCC 639, it has been held that mere apprehension of the Respondent, is not sufficient, there must be a clear and present danger based upon credible material, which shows that the movements and the acts of the Petitioner, are alarming or dangerous or fraught with violence. Likewise, there must be sufficient reason to believe that the person proceeded against, is so desperate and

dangerous that his mere presence in the locality would be hazardous to the society and its safety.

64. Much has been argued on behalf of the Respondent that there are two Statements recorded of the persons, which have been put in the *sealed cover*, to show the kind of threats that are being extended by the Petitioner. Significantly, in the Order Sheet, there is no mention whatsoever of the Statements of the witnesses having been recorded and kept in a sealed cover. It finds mention only in the Impugned Order, which creates a doubt about their genuineness and they being procured by the Respondents only to justify their acts.

65. Furthermore, two witnesses in their Statements, have merely stated that there are continuous threats being extended by the Petitioner to them and creating an atmosphere of fear. However, on what basis, in what circumstances and by what acts, such threats are being extended, are significantly missing. Merely making bald assertions not supported by any specific, cannot be considered as any kind of cogent evidence.

66. It is also pertinent to refer to the submissions of the Petitioner that since 2018. He stands rehabilitated and and is settled with his wife and children. He has been working in a Firm namely New Concept Services since 2018, which is corroborated by his Form-16 issued by the Firm.

67. It has been rightly stated by the Petitioner that such Order of Externment which has no basis, only leads to deprivation of his right to livelihood and prevents him from taking care of his wife and children for whom, he is the sole source of income. The Orders of Externment needs to be made with some responsibility, to address the objective with which Section 47 of the Delhi Police Act, has been inserted. While it cannot be

overlooked that an onerous task of maintaining law and order and peace in Society, rests on the Police, but at the same time, it cannot be used to deprive persons of their liberty and right to livelihood, on the grounds which are totally unsubstantiated.

68. While concluding, it may be noted that the Impugned Order of the Externment is a mechanical Order, which merely reproduces the language of the Section and is not supported by evidence of any kind. It is clearly an Order, which does not establish the circumstances as detailed in Section 47 of the Delhi Police Act, which would merit the Externment of the Petitioner.

69. The Petition is, therefore, allowed and the Externment Order dated 24.05.2025 is hereby, quashed. The next date of hearing stands cancelled.

70. The Petition is accordingly disposed of, along with pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 10, 2025/RS