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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.REV.P. 290/2025**

**RAHUL MALIK**

.....Petitioner

Through: Appearance not given.

versus

**STATE (NCT OF DELHI) AND ORS**

.....Respondents

Through: Mr. Utkarsh, APP for the State with  
SI Devender Yadav, PS: Vikas Puri.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**

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**31.07.2025**

**CRL.M.A. 22204/2025**

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

**CRL.REV.P. 290/2025**

3. Petition under Section 438 Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed on behalf of the Petitioner to set aside Order dated 22.05.2025 passed by learned ASJ(FTC), New Delhi in SC No.423/2018, whereby *the Application under Section 216 Cr.P.C., filed by the Complaint for framing of additional charge under Section 27 Arms Act and Section 201 IPC against the Petitioner*, was dismissed.
4. Learned APP for the State has appeared on advance Notice.
5. Briefly stated, FIR No.0089/2018 under Sections 307/328 IPC was registered at PS: Vikaspuri, Delhi, on complaint of Complainant Rahul Malik (Petitioner herein), who disclosed that he knew accused Akshay Kanotra, having studied in the same school and they had financial dealings.



He had given Rs.7,00,000/- as loan, to the Accused.

6. According to the Complainant, on 25.02.2018 at around 12.00 PM, the Accused called him on the pretext of returning Rs.2,50,000/-. He and the Accused, first went to meet one Panna Lal from whom the Complainant took Rs.20,000/- cash. Thereafter, they started for home in a Maruti Swift Car bearing No.DL-2C-AS-9332, of the Complainant. The Accused gave him one Maza bottle to drink, after drinking which he became semi-conscious. On regaining his senses, he discovered that the car was in a secluded place and the Accused had stabbed on his neck with a paper cutter. The Accused gave another blow with paper cutter on the neck of the Complainant and when he tried to save himself, the blow landed on his left hand.

7. Further allegations are that the Accused attempted to hit on his head with a *danda* and also tried to hit him with stone, but he escaped on foot. The Complainant also disclosed that he had kept two wads of currency notes of Rs.50/- and Rs.2,000/- and also had 68 currency notes of Rs.2,000/- and 71 currency notes of Rs.500/- in his car along with three Registers and one mobile phone. The Complainant stated that he was saved by the intervention of public persons, whom he had approached for help and who had called the Police and Ambulance.

8. As per the Chargesheet, one Paper Cutter, two Petrol Bottles and blood soaked documents were seized from the car. Samples of blood-stained seat were also taken from the car. The Accused was arrested and his disclosure statement was recorded. However, the currency notes and Registers could not be recovered.

9. The Chargesheet was filed under Sections 307/328/392/397 IPC, but the Accused was charged under Sections 307/328/392/397/307/ 328/364/379



IPC vide Order dated 03.10.2018.

**10.** The Complainant submitted that the Offence under Section 201 IPC and Section 27 Arms Act were also made out from the Chargesheet, for which the additional charges should have been framed.

**11.** Learned ASJ in his detailed Order observed that mere presence of two Petrol Bottles in the car which were recovered during investigations, is insufficient to frame charge under Section 201 IPC. Even if the alleged threat was given by the Accused that “*tujhe main gadi me zinda jalata hun*”, it is not sufficient to constitute the offence under Section 201 IPC. Furthermore, , learned ASJ noted that neither any pistol nor any cover was seized from the spot or from the car, and therefore, no offence under Sections 25/27 of Arms Act was made out.

**12.** *Aggrieved by the said Order, present Petition has been filed, whereby the impugned Order is assailed on the ground that the Complainant had seen the Accused taking out a pistol from its cover with intent to kill him. When the Complainant tried to save himself, the knife and pistol fell down. Thereafter, the Accused tried to burn the Complainant using petrol but that bottle also fell down after which, the Accused was attacked with danda. The Complainant ran towards the road to save himself.*

**13.** Recovery of two petrol bottles from the car, clearly makes out an offence under Section 201 IPC. Furthermore, there was a cover of pistol recovered from the car, which was sufficient for framing of the charge under Section 25/27 Arms Act.

**14.** *Learned APP for the State* has contended that the *Charges* were framed vide Order dated 03.10.2018, which has never been assailed by the Complainant. Thereafter, as the evidence was being recorded, the



Application was filed for framing of additional Charges. Even if the contentions of the Petitioner are accepted, then too no offence under Section 201 IPC and Sections 25/27 Arms Act is made out. The Application of the Complainant has therefore, been rightly dismissed.

**15. Submissions heard and record perused.**

**16.** The entire case of the Complainant/Petitioner is that two bottles of petrol were recovered from the car, which the Accused had taken with intent to burn the Complainant and thereby, destroy the evidence. However, Section 201 IPC provides for causing disappearance of evidence of offence, or giving false information to screen offender.

**17.** Merely because two bottles of petrol were recovered from the car, can by no stretch of interpretation to be held establishing destruction of evidence. The Accused may have intended to use them for whatever purpose, but mere presence of bottles of petrol cannot amount to destruction of evidence, as has been rightly held by learned ASJ.

**18.** Furthermore, insofar as the offence under Sections 25/27 Arms Act is concerned, it was found during the investigations which is reflected in the Chargesheet, that neither any Pistol nor its cover was recovered from the spot or car. The Complainant stated that he saw the Respondent taking out a Pistol from its Cover, but in the absence of any recovery of any fire-arm or its use, no offence under Sections 25/27 Arms Act can be framed.

**19.** There is no infirmity in the impugned Order passed by learned ASJ. The Petition is hereby, dismissed. Pending Applications, if any, are accordingly, disposed of.

**NEENA BANSAL KRISHNA, J.**

**JULY 31, 2025/R**