

**Smt. Uma Devi and ors. Vs. the State**

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**Court :** Delhi

**Decided On :** Jul-30-2001

**Reported in :** 93(2001)DLT720; 2001(59)DRJ732

**Judge :** Mr. S.K. Agarwal, J.

**Acts :** Code of Criminal Procedure (CrPC) , 1908 - Sections 173(8) and 482;  
[Indian Penal Code \(IPC\), 1860](#) - Sections 34, 323 and 325

**Appeal No. :** Crl. M(M) No. 2649/2001

**Appellant :** Smt. Uma Devi and ors.

**Respondent :** The State

**Advocate for Def. :** Mr. Pawan Sharma, Adv.

**Advocate for Pet/Ap. :** Mr. H.K. Chaturvedi, Adv

**Disposition :** Petition Dismissed

**Judgement :**

ORDER

**S.K.Agarwal, J.**

1. By is petition under Section 482 Code of Criminal Procedure (for short Cr.P.C.), petitioners are seeking quashing of the order taking cognizance on the

supplementary challan in case FIR No.172/2000, under Sections 323/325/34 IPC, P.S. Trilokpuri, East District, Delhi. Notice. Mr. Sharma accepts notice. Since the point involved is short, I purpose to dispose of the petition at this stage itself.

2. Learned counsel for petitioners submits that on 21.5.2000, Smt. Bimlish Kumari, lodged report on the basis of which above noted case was registered. After investigation, challan was against Bishan Swaroop Sharma. Police investigated the matter further under Section 173(8) Cr.P.C. and filed the supplementary challan, on the basis of which trial court took cognizance and summoned the petitioners. They appeared before the trial court and raised the objection that cognizance on the supplementary charge-sheet could not be taken as the permission of the trial court was not taken, to further investigate the matter. The plea was rejected vide orders dated 2nd June, 2001.

3. Learned counsel for petitioners vehemently argued that eh further investigation made by the police was bad in law as no permission was taken from the trial court before launching further investigation; thereforee cognizance taken on the basis of such a supplementary charge-sheet is not sustainable. Reliance is place on the decision of the Supreme Court in Ram Lal Narang and another Vs . State (Delhi Admin.), : 1979 CriLJ1346 , wherein it was held:-

'We think that in the interests of the independence of the magistracy and the judiciary, in the interests of the purity of the administration of criminal justice and in the interests of the comity of the various agencies and institutions entrusted with different stages of such administration, it would ordinarily be desirable that the police should inform the Court and seek formal permission to make further investigation when fresh facts come to light.

In order to appreciate the argument, reference to Section 173(8) Cr.P.C. is essential, which runs as under :

'173

(1) to (7) xxxxx.

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).'

4. Sub-section (8) of Section 173 specifically provides for further investigation in respect of an offence after a report under sub-section (2), has been forwarded to the Magistrate. The Apex Court in Ram Lal Narang's case (supra) had only observed about the desirability of seeking permission from the Magistrate or giving information to the court. In this case there is nothing on record to suggest that the Magistrate was not aware of further investigations being carried out. Assuming that there was no permission sought from the trial court or that the court was not informed about further investigations being carried on, it would be best be an irregularity, but not an illegality so as to vitiate the cognizance.

5. In view of the above, I find no merit in the petition.

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