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

+ CONT. CAS (C) 96/2021

ASHISH CHOPRA

.....Petitioner

Through: Ms Amrita Chatterjee and Mr Randhir
Kumar Lal, Advocates.

versus

NARENDER SINGH CHAHAR & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **01.02.2021**

The hearing was conducted through physical court.

CM APPL. 3465/2021 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed-off.

CONT. CAS (C) 96/2021

3. The petitioner runs a spa cum wellness centre. It had remained shut and non-operational for months because of the pandemic lockdown. This Court has permitted operations and running of spas with effect from 14.01.2021. Upon the petitioner reopening the spa on 16.01.2021, the SHO of Police Station Punjabi Bagh, New Delhi along with Head Constable Sandeep, are alleged to have harassed the petitioner and forced them to shut down the spa.
4. The petitioner has been permitted to open and operate the spa in terms of the order dated 14.01.2021 passed by this Court in W.P.(C)

No.7366/2020. The said order *inter alia* reads as under:

“...9. This Court is of the opinion that the slight difference in the nature of services and a slightly higher percentage of risk due to the proximity of the client and the service provider can be obviated by prescribing stricter measures and safeguards rather than continuing to keep such establishments closed. It also cannot be lost sight of that several salons also provide services akin to those provided in spas. Thus, the difference between the services provided in Salons and Spas is very minimal. Both these services require service providers and service takers to remain in close proximity for a sufficient duration. Thus, while allowing the opening of salons, continuing the embargo on spas would be violative of the rights of these establishments and their employees.

10. While this Court is conscious of the importance of prescribing strict safeguards that ought to be taken by establishments providing spa services as also the clients who visit these establishments, the continuation of the embargo on reopening of spas is unjustified. Accordingly, this Court permits the reopening of spas, wellness clinics and similar establishments, in the GNCTD, subject to the following conditions:

- i. There shall be strict compliance of the conditions specified in the office memorandum of 18th November, 2020 prescribed by the MoHFW in respect of spas, which is extracted above. The 6 feet distance shall be in general maintained between clients and employees. Insofar as the service providers i.e., therapists etc., are concerned, they shall maintain all standards of hygiene, masking etc., as set out below;*
- ii. In addition, considering the nature of services provided in spas, all employees in such establishments shall undergo fortnightly RTPCR tests, especially the therapists who are likely to come in close contact with the clients.*
- iii. All therapists and other employees, as also the visitors, shall be subjected to thermal temperature checks and if anyone shows any symptoms, they would*

not be permitted entry in the establishment

iv. All service providers shall wear face shields and masks while providing therapy. For treatments which are longer than thirty minutes, a PPE kit should also be worn in addition.

v. Clients should preferably wear masks to the extent possible, considering the nature of services which are availed of.

vi. All visitors/clients shall sign a declaration form to the effect that they have not contracted Covid-19 and if they have, they have tested negative. The establishments are permitted to take a written consent form accepting the risks that may be involved for clients/visitors.

vii. Tools including clothing, other apparel, towels etc., used for clients, shall be sanitised after each and every treatment

viii. It shall be ensured that hygienic conditions are maintained in the spas and any other safeguards in force for salons shall also be adhered to by the spas.

11. Subject to the above conditions being adhered to by spas, wellness clinics and similar establishments, the said establishments are permitted to be opened.

12. The petitions are allowed III the above terms and all pending applications are disposed of..”

5. Despite the aforesaid order, the SHO of PS Punjabi Bagh and the Head Constable were abusive in their conduct, forced the Spa to shut down and the SHO went on to arrest the Manager of the Spa.
6. Issue notice to the respondents through speed post, approved courier, e-mail, WhatsApp, SMS, Signal and such other forms of electronic service as may be viable, also through Standing Counsel, (Criminal) GNCTD , 430 Lawyers’ Chambers, Delhi High Court, returnable on 18.02.2021.

7. The order be uploaded on the website forthwith.

NAJMI WAZIRI, J

FEBRUARY 01, 2021/rd