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WP-48763-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 28th OF JANUARY, 2026WRIT PETITION No. 48763 of 2025*MUKHTIYAR AHMED KHAN**Versus**UNION OF INDIA AND OTHERS*

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Appearance:

Shri Ahadulla Usmani - Advocate for the petitioner.

Ms. Priti Singh - Advocate for the respondent no.1.

Shri B.K.Upadhyay - GA for the respondent nos.2 to 5.

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ORDER

The present petition under Article 226 of the Constitution of India has been filed by the petitioner challenging the registration of offence against him vide First Information Report bearing Crime No.311/2025 dated 15.11.2025 at Police Station Chandiya, District - Umaria for the offence punishable under Sections 7/14 of the Foreigners Act, 1946, on the allegation that he, being the owner of the house, failed to furnish Form-C within the prescribed period in respect of a foreign national.

2. The brief facts of the case are that one Mohammad Saheb Khan, an American National, came to India to attend the marriage ceremony of his nephew Arman Khan, and initially stayed at Shawn Elizay Hotel, Jabalpur, which is a registered accommodation. After the marriage ceremony, on 12.11.2025 at about 02-03 PM, he visited Ward No.15, Village Chandia,



District-Umaria to meet his close relatives including his brother and sisters. On the allegation that the petitioner, being the owner of the said house, did not submit Form-C within 24 hours, a case has been registered against him under Sections 7/14 of the Foreigners Act, 1946.

3. Learned counsel for the petitioner has argued that the petitioner has already informed the local police station at the time of arrival of the foreign national at his vicinity and therefore no case for commission of any offence punishable under the eyes of law is made out. He further submitted that the registration of the FIR by the police for the offence under Section 7/14 of the Foreigners Act, 1946 is illegal, perverse and contrary to law as there is no time limit of 24 hours for giving information to Police or Administration. He further argued that the petitioner is a private individual, more specifically relative of foreigner visitor, not running any hotel, lodge, guest house, or homestay. Mere ownership of a residential house does not automatically attract the statutory obligation. The foreign national's visit to the petitioner's house was purely familial and social.

Learned counsel for the petitioner also submits that with the enactment of the Immigration and Foreigners Act, 2025, the earlier blanket obligation applicable even to private individuals has undergone a conscious legislative change. Reliance is placed upon Section 8(2) and Section 8(3) of the 2025 Act to contend that residential premises of non-commercial nature stand excluded unless a specific direction is issued by the civil authority. Another ground urged by the petitioner is that the offence has been registered under the Foreigners Act, 1946, which was no longer in force and repealed



by Immigration and Foreigners Act, 2025, on the date of the alleged violation, and therefore the very initiation of proceedings under the repealed enactment is without jurisdiction. He further submitted that even otherwise, the petitioner submitted Form-C on 14.11.2025, during the subsistence of the visit. He further argued that there is no allegation of concealment, misrepresentation, or intent to evade immigration law. At best, the allegation pertains to a technical delay, which does not warrant criminal prosecution.

On the other side counsel for the Union Of India as well as State argued that the petition is misconceived and liable to be dismissed. The provisions of the Foreigners Act, 1946 and the subordinate legislation are enacted to ensure effective monitoring of foreign nationals in the country. Rule 14 of the Registration of Foreigners Rules, 1992, the keeper of premises is mandatorily required to submit Form-C within 24 hours. The expression “keeper of premises” is wide enough to include a house owner who allows a foreigner to stay in his premises. The foreign national stayed in India from 12.11.2025 to 16.11.2025. His presence at the petitioner’s house was not a fleeting visit but part of his stay in India. Hence, the obligation to report cannot be avoided on the ground of familial relationship. The requirement of filing Form-C within 24 hours is mandatory, not directory. Filing Form-C on 14.11.2025, after the stipulated period, constitutes a clear contravention, punishable under Section 14 of the Foreigners Act, 1946. Offences under the Foreigners Act are regulatory in nature and absence of mala fide intention is immaterial once contravention is established. So far as ground relating to applicability of Immigration and Foreigners Act, 2025 is



concerned, they argued that there is savings clause under Section 36 which validates the registration of offence under the Foreigners Act, 1946. They pray for dismissal of petition.

4. Heard all the parties and perused the material available on record.

5. The issue for consideration before this Court is as to whether, in the facts of the present case, criminal liability under Sections 7/14 of the Foreigners Act, 1946 can be fastened upon the petitioner for alleged delayed submission of Form-C.

6. Before entering into merits of matter, it would be apposite to read the relevant provisions i.e. Section 7 and 14 under the Foreigners Act, 1946 and on careful reading, Section 7 of the Foreigners Act, 1946 creates obligations in respect of foreigners, while Section 14 prescribes penalty for contravention of the Act or any order made thereunder.

7. Further, the duty to submit Form-C arises from Rule 14 of the Registration of Foreigners Rules, 1992, which casts such obligation upon the “keeper of the premises” where the foreigner is accommodated.

8. It is not in dispute that the Immigration and Foreigners Act, 2025 came into force with effect from 01.09.2025. The said enactment is a comprehensive and consolidating statute governing matters relating to immigration, entry, stay and obligations of foreigners, and by express legislative mandate repeals the Foreigners Act, 1946. Upon such repeal, the earlier statutory regime stood effaced except to the extent expressly saved by the repealing enactment. Consequent upon the enforcement of the Act of 2025, the Central Government has framed the Immigration and Foreigners



Rules, 2025 in exercise of the rule-making power conferred under the new Act. The said Rules, 2025 constitute an independent and fresh set of subordinate legislation and are not a continuation or amendment of the Registration of Foreigners Rules, 1992, which were framed under the repealed Foreigners Act, 1946.

9. It is a settled principle of law that subordinate legislation does not survive the repeal of the parent statute unless expressly saved or re-enacted. In the absence of any express saving clause continuing the Registration of Foreigners Rules, 1992, the said Rules ceased to have operative force upon the repeal of the parent Act. Consequently, with effect from 01.09.2025, the field is occupied exclusively by the Immigration and Foreigners Act, 2025 and the Rules framed thereunder, and any obligation, liability or penal consequence must necessarily be traced to the provisions of the 2025 Act and the Immigration and Foreigners Rules, 2025 alone. Any attempt to invoke the repealed Act of 1946 or the Registration of Foreigners Rules, 1992 for acts or omissions occurring after the commencement of the 2025 Act would be wholly without authority of law.

10. In the present case, The foreign national had entered India on a valid visa granted for the period 25.09.2025 to 24.12.2025. The foreign national's stay at the petitioner's residence commenced on 12.11.2025, i.e., after the repeal of the 1946 Act. The alleged omission, if any, is therefore governed exclusively by the Immigration and Foreigners Act, 2025, and not by the repealed enactment.

11. It is a settled principle of criminal jurisprudence that no person can



be prosecuted for an offence under a statute which was not in force on the date of the alleged act or omission. Registration of an offence under a repealed law, in the absence of a saving clause expressly permitting such prosecution, is legally unsustainable.

12. The respondent authorities have not pointed out any provision under the Immigration and Foreigners Act, 2025 which saves or continues penal action under the repealed Foreigners Act, 1946 for acts committed after the repeal. Upon consideration of the saving clause relied upon by the respondent authorities, this Court finds that the same does not advance their case. The said clause merely preserves actions lawfully taken, proceedings initiated, or penalties imposed under the repealed enactments during the period when such enactments were in force, and creates a legal fiction only to ensure continuity of past actions, subject to consistency with the provisions of the new Act. The saving clause does not operate to revive the repealed Foreigners Act, 1946, nor does it authorise initiation of fresh proceedings or registration of offences thereunder in respect of acts or omissions occurring after the enforcement of the Immigration and Foreigners Act, 2025.

13. In the present case, the alleged omission is stated to have occurred on 12.11.2025, much after the repeal of the Act of 1946 with effect from 01.09.2025. No proceeding was pending nor any action was initiated under the repealed Act prior to such repeal. Consequently, invocation of the Foreigners Act, 1946 or the Registration of Foreigners Rules, 1992 by taking shelter under the saving clause is wholly misconceived and legally



unsustainable. Any obligation or penal consequence after 01.09.2025 must necessarily be traced to the provisions of the Immigration and Foreigners Act, 2025 and the Rules framed thereunder alone.

14. In view of the above, this Court is of the considered opinion that registration of offence under the Foreigners Act, 1946 for an alleged violation occurring on 12.11.2025 is *ex facie* illegal and without authority of law.

15. Once the foundation of the proceedings is found to be void, all consequential actions taken pursuant thereto cannot be permitted to stand.

16. Accordingly, the writ petition is **allowed**. The FIR registered vide Crime No. 311/2025 at Police Station Chandiya, District - Umaria for the offence punishable under Sections 7/14 of the Foreigners Act, 1946, against the petitioner is hereby quashed. All consequential proceedings arising therefrom shall also stand quashed.

17. However, it is clarified that this order shall not preclude the competent authority from taking action, if any is permissible in law, strictly in accordance with the Immigration and Foreigners Act, 2025, subject to its provisions and limitations.

18. No order as to costs.

(HIMANSHU JOSHI)
JUDGE