
(2013) 01 DEL CK 0356
In the Delhi High Court
Case No : Writ Petition (C) 8114 of 2012

Abhinav Ramkrishna

APPELLANT

Vs

State of NCT of Delhi and Another

RESPONDENT

Date of Decision : 02-01-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 01 DEL CK 0356

Hon'ble Judges : D. Murugesan, C.J.;V.K. Jain, J

Bench : Division Bench

Advocate : P.K. Sharm for CBI, Mr. Anil Kr. Singh, Advocate for R-2, Mr. Neeraj Chaudhri, CGSC and Mr. R. Singh, Advocate for R-3, for the Respondent

Final Decision : Disposed Off

Judgement

1. As many as 7 FIRs were registered in two police districts of Delhi in respect of various offences alleged to have been committed by the office bearers of an NGO, namely, Anand Jan Sewa Society. Charge sheet has been filed before the concerned ACMM in respect of the case registered vide FIR No. 270/2010 at Police Station Ambedkar Nagar, Delhi, whereas the remaining cases are still pending investigation. Alleging defects and procedural lapses in investigation of those cases, the petitioner is seeking a direction to Govt. of NCT of Delhi to transfer investigation of the said cases to Central Bureau of Investigation or Serious Fraud Investigation Office. The petitioner is also seeking appointment of a senior advocate as Special Public Prosecutor for these cases and a committee to supervise the sale/disposal of the properties of accused persons besides disbursal of the amount realized from the sale of such properties. Admittedly, the investigation in the above referred cases is being conducted by Economic Offences Wing of Delhi Police, which is a special unit meant primarily to investigate economic offences such as those alleged to have been committed by the office bearers of Anand Jan Sewa Society. A Writ Petition being WP(Crl.) 292/2012 was filed by one Mrs. Meena Gupta, one of the victims of the said

crimes, seeking transfer of investigation of the pending cases to CBI. The Writ Petition was dismissed by a learned Single Judge of this Court vide order dated 10th October, 2012, and the order seems to have been accepted by the petitioner in that case, inasmuch as it was not challenged before a higher forum. No other victim of the crime has sought investigation by an agency other than the Economic Offences Wing of Delhi Police.

2. In *State of West Bengal and Others Vs. The Committee for Protection of Democratic Rights, West Bengal and Others*, , the Supreme Court while upholding the power of the High Courts, in exercise of jurisdiction under Article 226 of the Constitution, to direct investigation of a cognizable offence even without consent of the State within whose territory the offence is committed, struck the following note of caution:

69. Insofar as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.

71. In *Secretary, Minor Irrigation and Rural Engineering Services, U.P. and Others Vs. Sahngoo Ram Arya and Another*, , this Court had said that an order directing an enquiry by the CBI should be passed only when the High Court, after considering the material on record, comes to a conclusion that such material does disclose a prima facie case calling for an investigation by the CBI or any other similar agency. We respectfully concur with these observations.

This is not the case of the petitioner before this Court that investigation into the offences alleged to have been committed by the officer bearers of Anand Jan Sewa Society has interstate or international ramifications. This is also not the case of the petitioner that Economic Offences Wing of Delhi Police does not possess the tools and the manpower required for carrying investigation into the offences subject matter of the above referred FIRs. The said Wing is a unit created by Delhi Police specially for carrying out investigation of cases involving commission of economic offences and the police personnel manning this unit, on account of their experience in handling such cases come to acquire the special knowledge and skill which are required for carrying out an efficient and expeditious investigation into such matters. We, therefore, are satisfied that no reasonable ground for transferring the investigation, either to Central Bureau of

Investigation or to Special Investigation Fraud Office is made out.

However, considering the averments that there are thousands of person who are the victims of the crime alleged to have been committed by the officer bearers of Anand Jan Sewa Society, it would be imperative that the investigation is not only just and fair, but is also conducted efficiently and completed expeditiously. We, therefore, deem it appropriate that the investigation should be carried out under direct supervision of a senior police officer. We accordingly direct that the investigation in the pending cases shall be carried out expeditiously, under the supervision of the Joint Commissioner of Police controlling the Economic Offences Wing of Delhi Police. The Government of NCT of Delhi would also consider appointing a competent Public Prosecutor for prosecution of those cases which result in filing of charge-sheets.

The writ petition stands disposed of with these directions.