
(2005) 09 DEL CK 0108
In the Delhi High Court
Case No : Writ Petition (Cr.) 305 of 2005

Akhtar Parvez

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 28-09-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 151
Penal Code, 1860 (IPC) — Section 34, 506

Citation : (2005) 09 DEL CK 0108

Hon'ble Judges : R.S. Sodhi, J

Bench : Single Bench

Advocate : Varun Goswami and Shadman AH, for the Appellant; Rajdipa Behura, for the Respondent

Judgement

R.S. Sodhi, J.—Writ Petition (Cr.) 305/2005 has been filed with a prayer to issue a writ, order or direction in the nature of mandamus to initiate proper disciplinary proceedings against respondent Nos. 5 and 6, as also registration of an F.I.R. and for compensation for the injuries caused to the petitioner while in police custody.

2. Brief facts of the case as have been mentioned in the writ petition are that FIR 168/2004 was registered under Sections 506/34 against the brother and nephew of the petitioner at police station Bara Hindu Rao. The police in order to secure the presence of the accused persons picked up the petitioner and brought him to the Police Station.

3. On 19.7.2004 the petitioner filed a writ petition being Criminal Writ Petition 894/2004 before the High Court seeking protection against harassment by the police. The writ petition was disposed of on the same day with a direction that the ACP to ensure that the petitioner and his family are not harassed, in any manner.

4. On 3.10.2004 at about 10.30 p.m. the petitioner was again picked up by respondent Nos. 5 and 6, brought to the police station Bara Hindu Rao, where

the petitioner was mercilessly beaten and subjected to torture by respondent Nos. 5 and 6, on instruction of the second respondent.

5. On 4.10.2004 the petitioner was medically examined and produced before the Special Magistrate who was pleased to release the petitioner.

6. However, the condition of the petitioner deteriorated and on 5.10.2004 he was re-admitted to the hospital.

7. On 9.10.2004 the petitioner was discharged and on 10.10.2004 the petitioner lodged another complaint against respondent Nos. 2 and 4 regarding custodial torture. Since no action was being taken on his complaint the petitioner moved this Court by way of a writ petition being Writ Petition (Criminal) 305/2005.

8. On 11.3.2005 notice was issued upon which the status report has been filed. From the status report it appears that the petitioner, Akhtar Parvez, was arrested by S.I. Harish Chander under Sections 107/151 of the Code of Criminal Procedure, without sufficient reasons. The petitioner was not got medically examined after being put into the lookup and in the Body Inspection Memo, prepared by S.I. no injury was shown. However in the MLC, the doctor of Bara Hindu Rao Hospital has recorded alleged history of being beaten up in police custody, bruises, contusion, swelling, etc.

9. The inquiry suggested that departmental action be taken against the delinquent police officer.

10. Counsel for the petitioner submits that the petitioner was brutally beaten up while in custody and has placed on record certain photographs which depict marks of a most savage treatment meted out to the petitioner while in custody. The MLC supports the case of the petitioner.

11. In that view of the matter, I direct that an FIR be registered and investigation be carried out by the District Investigating Unit (North) and since, prima facie, a case of police brutality and custodial torture is made out, I direct the State to pay by way of an ex gratia ad interim compensation amount of Rs. 50,000/- (rupees fifty thousand) which may be recovered from the delinquent policeman. Any observation made herein shall not be treated as an expression on merits to cause prejudice to the accused person.

12. With this Writ Petition (Crl.) 305/2005 is disposed of.

13. A copy of this judgment be given dusty.