
(2006) 02 DEL CK 0012

In the Delhi High Court

Case No : Writ Petition (Criminal) 1274 of 2004

M.P. Singh Rathore

APPELLANT

Vs

State of NCT of Delhi and Others

RESPONDENT

Date of Decision : 02-02-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Penal Code, 1860 (IPC) — Section 34, 420, 468, 471, 504

Citation : (2006) CriLJ 1366 : (2006) 127 DLT 317 : (2006) 87 DRJ 187

Hon'ble Judges : Ramesh Chand Jain, J

Bench : Single Bench

Advocate : M.P. Singh Rathore, for the Appellant; Ashok K. Srivastava, for respondents 2 and 3, for the Respondent

Judgement

R.C. Jain, J.—This is a petition under Article 226/227 of the Constitution of India for issuing a writ or direction to the police authorities to arrest the accused and to entrust the investigation of the case to CBI or Crime Branch for proper investigation.

2. The petition has been made with the averments and allegations that petitioner's son-Vishal Singh Rathore, has been a student of Little Flowers Public Senior Secondary School, Shivaji Park, Shahdara, Delhi. He was illegally declared as failed in 11th standard by respondents no.2 to 4 viz., Manager, Principal and class teacher of the said school with some ulterior motives by manipulating the report card of Vishal Singh Rathore. Under the directions of Additional Chief Metropolitan Magistrate, Karkardooma Courts, a case FIR 139/2004 under Sections 420/468/471/504/506/34 IPC was registered at P.S.Shahdara and investigation undertaken by the local police. The petitioner has alleged that the report card of Vishal Singh contained different entries in the last pages, which report card was possessed by respondents no.2 to 4 and when the petitioner went to the school to confront the respondents as to how his son has been given compartment, respondents no.2 & 3 got annoyed with the petitioner and asked

him to pay a sum of Rs.25,000/- for passing out Vishal Singh. The petitioner has, however, alleged that thereafter respondents no.2 & 3 tampered the report card of Vishal Singh by replacing the last page of the report card with another page declaring Vishal Singh as failed. The petitioner made complaints to the police station and the Education Officer and since no action was taken, he filed a complaint in the court of Metropolitan Magistrate who directed the respondent to register the case as above. It is alleged that despite registration of the FIR, the investigation of the case was not taken in real earnest in as much as the accused were not arrested. The petitioner apprehends that the investigation in the case may not be proper, impartial and fair and, hence the petition with the above prayers.

3. Notice of the petition was issued to the respondents. Initially a status report dated 3.1.2005 was filed on behalf of respondent no.1 disclosing that the investigation into the above referred FIR was in progress and the documents had been sent to FSL, Rohini and result on the same was still awaited and that by then nothing had come on record to arrest anybody in the matter. Afterwards a further report dated 10.8.2005 was filed concluding as under:-

During the course of investigation Report Card of Vishal Singh Rathore and other students produced by complainant, his original answer sheet of Mathematics, English, General Study, Chemistry, Physics and Engineering & Drawing and answer sheet of supplementary examination of Mathematics and Chemistry, CBSE application letters dated 7.3.86 & 15.5.95. Examination record register, attendance register were sent to FSL for expert opinion who have opined that entries appear in their normal sequence and no evidence of fabrication/alteration observed however one sheet of report card is missing prior to its last cover page and one staple pin between top and bottom is extra in number and different in nature. A number of persons were interrogated but no evidence of threatening came on the file. No alteration/fabrication was found on any documents so the case had been sent for cancellation on 9.8.05 in the Court of Sh. B.S.Chumbak, Ld.MM, Karkardooma Court, Shahdara, Delhi.

4. The petitioner controverted the said status report and filed rejoinder thereby alleging that the investigating officer has committed contempt of the court by filing a cancellation report in the court on 9.8.2005 when the matter was receiving consideration by this Court and despite the assurance that the final report on receipt of the expert opinion shall be submitted to the Court. It is also alleged that the investigating officer has twisted the true factual position and even the expert opinion in regard to the manipulation of the report card. It is also stated that the investigating agency has over-looked the circumstances under which the columns relating to the attendance and percentage were left blank in the report card of Vishal in contrast to the entries appearing in the report cards of other students. The petitioner has alleged that the investigation so conducted is merely an eye wash and aimed at saving the accused persons from the rigours of law

5. Heard the petitioner in person and standing counsel (criminal) at length and have bestowed my thoughtful consideration to their respective submissions besides going through the record of investigation and cancellation report submitted to the Court on 9.8.2005 seeking cancellation of the case.

6. The petitioner has taken the Court through the report card in question and the report cards of other students with a view to show various dis-similarities, at least, in the last page. On the other hand, the standing counsel on the basis of the expert opinion and otherwise also tried to show that there is no tampering or manipulation in the report card of the son of the petitioner and, Therefore, cancellation report filed by the investigating agency is justified. This Court in the present proceedings can only observe that the investigation in this case has not been taken up in the real earnest and it was mis-directed towards certain irrelevant aspects. The core question which was required to be investigated was as to whether the report card of the son of the petitioner was, in fact, manipulated or not. The expert report placed on record states as under at point-VII:

On inters comparison of progress report booklet marked T1 to T6 similarities are observed among themselves with respect to total number of sheets i.e. eight as well as number of staple pins used, whereas progress report booklet marked V show one sheet missing prior to its last cover page and contain only seven sheet as well as staple pin located between top and bottom staple pins is also extra in number and different in nature

7. Surprisingly, despite the above said expert report, the status report filed by the Assistant Commissioner of Police dated 10.8.2005 states that no alteration/fabrication was found on any documents, so the case had been sent for cancellation on 9.8.2005 in the court. "The said status report clearly overlooks the above observation in regard to missing of one sheet of the report card prior to its last cover page and insertion of another staple pin between top and bottom which was found to be different than the one used for stapling the report cards of the other students. The very fact that one page was found missing from the report card of the petitioner's son lends credit to the version of the petitioner that the report card of his son-Vishal Singh Rathore, was manipulated by someone at some stage with some ulterior motive. It was, Therefore, the duty of the investigation officer to have probed this aspect by collecting evidence in that behalf. It appears to the court that the concerned investigation officer(s) have not taken up the investigation in the real earnest and in impartial and proper manner, as was expected of them. Rather it would appear that the investigation was taken in a perfunctory manner losing the objectivity as is required from an independent investigating agency. No wonder that the investigating officer(s) did so and mis-conducted themselves with a view to help the persons who are responsible for manipulating the report card of Vishal Singh Rathore after the petitioner took up the matter with the concerned authorities of the Directorate of Education, Government of NCT of Delhi.

8. Having considered the matter in its entirety, this Court is of the opinion that the investigation conducted so far does not inspire confidence and, Therefore, there is an imperative need that further investigation is conducted in the matter by somewhat better equipped and independent investigation agency. Accordingly, the writ petition is partly allowed and the Anti-Forgery Section, E.O.W. of the Crime Branch of Delhi Police is directed to take up the further investigation in the matter so as to probe and pin-point the persons responsible for manipulating the report card of Vishal Singh Rathore and take further action as may be necessary pursuant to such further investigation expeditiously, in any case within six weeks from the date of this order. Further investigation to be conducted in the matter shall be supervised by the Deputy Commissioner of Police (Crime).

9. Before parting with this case, this Court would also like to record its concern and displeasure about the manner in which the cancellation report was presented in the court of Metropolitan Magistrate on 9.8.2005 with unholy haste when the matter was receiving consideration of this Court and listed for hearing on 16.8.2005 and this Court was monitoring the investigation of the case. Such a practice has to be deprecated in strong terms. Writ petition stands disposed of with these observations.

10. A copy of the order shall be forwarded to Commissioner of Police, Delhi for necessary action.