
(2012) 04 DEL CK 0300

In the Delhi High Court

Case No : Writ Petition (Criminal) 1453 of 2010 and Criminal MA 3344 of 2012

Sonu

APPELLANT

Vs

State NCT of Delhi

RESPONDENT

Date of Decision : 11-04-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 107, 150, 161, 164
Penal Code, 1860 (IPC) — Section 324, 34, 341, 363, 366

Citation : (2012) 4 AD 464

Hon'ble Judges : M.L. Mehta, J

Bench : Single Bench

Advocate : S.B. Tripathi, for the Appellant; Saleem Ahmed, ASC for the State with Mr. Puneet Relam and Inspector A.S. Negi and ASI K.P. Singh, P.S. Mayur Vihar, for the Respondent

Final Decision : Disposed Off

Judgement

M.L. Mehta, J.—This petition under Article 226 of the Constitution of India is preferred by the petitioner seeking issuance of writ of mandamus and other orders/ directions directing CBI inquiry in the matter and for taking action against respondent's no.2 to 8. The petitioner was arrayed as an accused along with co-accused Mangal in case FIR No.344/2008 under Sections 363/366/376/506/34 IPC registered with police station Mayur Vihar. The FIR came to be registered on the statement of Smt. Meera (respondent no.6) made to the Police on 2.11.2008 that her daughter Ms. Ruchi (respondent No.7) was kidnapped by Mangal with the help and connivance of petitioner Sonu on 7.10.2008. She alleged that since they were being threatened by these persons, the report in this regard was not lodged with the police, prior to 2.11.2008.

2. The main grievance of the petitioner was that he was not involved in the commission of alleged offence and that he was falsely implicated at the instance of his political rival respondent no.5 Mahender Kumar Bansal. It was also alleged

that the investigation conducted by respondent no.4 ASI K.P. Singh was not fair and honest inasmuch as he had ignored the statement made by the complainant earlier on 10.10.2008 wherein the allegations of kidnapping were made against Mangal and one Vicky and not against the petitioner. Further ASI K.P. Singh had also removed the photograph of a goonda, who allegedly kidnapped Ruchi and also OPD card of Ruchi from the documents. It was alleged that he also overlooked the statement of Ruchi recorded u/s 164 Cr.PC on 18.11.2008 wherein she did not name the petitioner. His grievance was also that though he was not involved, but an article was published in the newspaper dated 16.11.2008 showing his involvement in the commission of the said offence. He also alleged that he had filed some complaints with SHO and senior police officers and also before SC/ST Commission, but no action was taken. He thus prayed for directing CBI inquiry into the FIR and for directing respondent no.1 i.e. Government of NCT of Delhi to take appropriate legal action against respondents namely Mr. Mahender Kumar Bansal, complainant Meera and her daughter Ruchi and for initiating departmental proceedings against respondents no.2,3,4 and 8 who were respectively sitting and former SHOs and ASI K.P. Singh and SI Nagender Singh.

3. I have heard learned counsel for the petitioner as also learned ASC for State and perused the record.

4. Regarding the incident that happened on 7.10.2008, initial complaint was made by complainant Meera to the SHO on 10.10.2008 wherein she specifically leveled allegations against Mangal. She stated that some boy naming himself to be Vicky also made threatening call to her son Ajay. Thereafter, on 2.11.2008, she made a formal complaint, whereupon the aforesaid FIR was registered. In this complaint, she specifically alleged that Mangal had kidnapped her daughter Ruchi and that petitioner Sonu was also involved. She stated that it was because the petitioner Sonu was repeatedly threatening her not to lodge the FIR. Ruchi had also in her statement made to NGO Pratidhi stated about the involvement of petitioner Sonu in the commission of offence as he was always associated and moving with Mangal. However, in her statement made u/s 164 Cr.PC, she resiled and did not attribute any allegations against Mangal or petitioner Sonu. Rather she stated having married Mangal.

5. Most of the complaints which are seen to have been made by the petitioner to the police and senior police officers and also to SC/ST Commission reflected about his enmity with Mahender Kumar Bansal. Some of those complaints are in fact relating to the subsequent kalandara which came to be registered against the petitioner and Mahender Kumar Bansal u/s 107/150 Cr.PC and also registration of FIR No.17/2009 against him under Sections 324/341 IPC at the instance of Mahender Kumar Bansal. In some of those complaints, the allegations are also leveled against the investigating officer, K.P. Singh that he had falsely implicated the petitioner. It was also alleged that he had concealed the present whereabouts of complainant and Ruchi. The said kalandra proceedings, however,

were dropped by the Special Executive Magistrate on 18.8.2011 observing that there were complaints filed by both the parties namely petitioner and Mahender Kumar Bansal against each other and that does not amount to apprehension of breach of peace.

6. In the aforesaid FIR 344/2008, the petitioner was charged u/s 366/34 IPC on the strength of purported statement u/s 161 Cr.PC made by the prosecutrix on 12.11.2008. The said order of learned trial court framing charges was challenged by the petitioner by way of a criminal revision petition no. 407/2008. Since the prosecutrix had in the meantime given her statement u/s 164 Cr.PC on 18.11.2008, this Court vide order dated 20.01.2011 quashed the order of framing charges against the petitioner and consequently discharged him. Similarly, co-accused Mangal was also acquitted by learned ASJ vide order dated 4.3.2011. Since the petitioner had been discharged of the aforesaid offence by this Court in the said revision petition, this Court on 20.1.2011 in the present case recorded as under:

Since the petitioner Sonu has already been discharged by this Court in Crl. Rev. No.407/2010, learned counsel for the petitioner seeks to withdraw this petition. As prayed, the petition is dismissed as withdrawn.

7. Thereafter the petitioner filed an application seeking withdrawal of the aforesaid order stating that he did not make any statement for withdrawal of present petition. It was also submitted that from the subsequent developments, it is revealed that ASI KP Singh was found guilty in the vigilance proceeding conducted by Vigilance Department as per its report dated 20.9.2011.

8. From the above, it would be seen that the FIR for which direction was sought for CBI inquiry no longer survived after discharge of petitioner and acquittal of co-accused Mangal. Thus, the relief sought for seeking directions to CBI for investigation has become infructuous. With regard to the relief of taking action against respondents no.5,6 and 7 as also departmental proceedings against the police officers, it may be noted that after the prosecutrix Ruchi having resiled from her statement and married with Mangal, she did not pursue the complaint against Mangal and petitioner. It is presumably because of these developments that she resiled from the previous complaint and made statement u/s 164 Cr.PC exonerating both, the petitioner as well as co-accused Mangal. With regard to the allegations against the investigating officer and action to be taken against him and other police officials, it is seen that the departmental inquiry was conducted by Vigilance Department on the complaint of petitioner. The allegations against other police officials except K.P. Singh were found to be baseless and concocted. Even otherwise, there were no specific allegations leveled in the present petition also against the two SHOs and ASI Nagender Singh. The vigilance inquiry found that ASI K.P. Singh did not make any effort to produce the complainant and her daughter Ruchi before the Court and recommended action against him. That being so, no further action is called for by this Court against these respondents/policy officers. In view of the above discussion, nothing survives in this petition

warranting any action. The petition stands disposed of accordingly.