
(2025) 03 DEL CK 1018

In the Delhi High Court

Case No : Criminal Miscellaneous Petition No. 549 Of 2018, Criminal
Miscellaneous Petition No. 2015 Of 2018

State Govt Of Nct Of Delhi

APPELLANT

Vs

Trishla Jain

RESPONDENT

Date of Decision : 10-03-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 156(3), 200
Indian Penal Code, 1860 — Section 302

Citation : (2025) 03 DEL CK 1018

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Yasir Rauf Ansari, Alok Sharma, Vasu Agarwal, Ashutosh Jha,
Oleander Donald Singh

Final Decision : Disposed Of

Judgement

Neena Bansal Krishna, J

1. The aforesaid two Petitions have been decided together as they both emanate from the same Order dated 10.02.2016 wherein directions have been issued for initiating disciplinary action against the Police Officials, by learned Special Judge, CBI against the two Petitioners.

2. Briefly stated, Complaint Case No.54/1/2014 titled 'Trishla Jain vs. Tavishi Chandra' was filed by Trishla Jain which was accompanied with an Application under Section 156(3) of the Code of Criminal Procedure, 1973 ('Cr.P.C.' hereinafter). However, the Application under Section 156(3) Cr.P.C was dismissed by the learned M.M vide Order dated 20.10.2015 against which Revision was preferred before the learned Judge, CBI, Delhi who set aside the impugned Order dated 20.10.2015 and directed the FIR to be registered and investigated by an Officer of Delhi Police not below the rank of Inspector and also sought compliance to be made within two weeks. The FIR No.216/2016 under Section 302 of the Indian Penal Code, 1860 ('IPC' hereinafter) Police Station Sarai Rohilla

was accordingly, registered.

3. It is submitted by the two Petitioners that while disposing of the Revision Petition in paragraph 24 and 25 the learned Special Judge made observations against the Senior Officers of Delhi Police including the DCP and SHO and directed the Ministry of Home Affairs, Government of India to take appropriate disciplinary action against them. An Action Taken Report was also sought from Secretary, Ministry of Home Affairs, Government of India, Delhi within a period of six weeks from the date of Order.

4. The DCP, North preferred Writ Petition (Crl.) 808/2016. However, in view of the objections taken that the Writ Petition should have been filed through the State machinery, second Crl. M.C. No.549/2018 has been preferred through NCT of Delhi.

5. The impugned Order has been challenged on the ground that there existed no cogent reason for the Court to make such remarks and give directions against the Senior Police Officials/SHO in the facts of the present case. It was not appreciated that on receipt of the Complaint, proper enquiry had been conducted before arriving at the opinion that no cognizable offence was made out on the allegations made in the Complaint. The opinion of the Department was approved and endorsed by learned M.M who declined to direct registration of FIR under Section 156(3) Cr.P.C. Merely because learned Sessions Judge differed from the view taken by the Authorities, cannot be a ground to pass such directions.

6. While passing such directions learned ASJ has completely ignored Delhi High Court Rules particularly Chapter 1-H, paragraph 6 of which reads as under:

"9. Observations should not be made by courts against persons and authorities, unless they are essential or necessary for decision of the case. Rare should be the occasion and necessities alone should call for its resort. Courts are temples of justice and such respect they also deserve because they do not identify themselves with the causes before them or those litigating for such causes. The parties before them and the counsel are considered to be devotees and pandits who perform the rituals respectively seeking protection of justice; parties directly and counsel on their behalf. There is no need or justification for any unwarranted besmirching of either the parties or their causes, as a matter of routine.

10. Courts are not expected to play to the gallery or for any applause from anyone or even need to take up cudgels as well against anyone, either to please their own or anyone's fantasies. Uncalled-for observations on the professional competence or conduct of a counsel, or any person or authority or harsh or disparaging remarks are not to be made, unless absolutely required or warranted for deciding the case."

7. The learned ASJ erred in passing adverse remarks and giving directions against Delhi Police officials without giving them an opportunity of being heard. In the case of Ravinder Tyagi vs. State Crl. W.P. No.264/2011 it was observed

that the cardinal principle of administration of justice requires that the Judges must be allowed to perform their duties freely and fairly and without undue interference by anybody even by the superior courts. However, it is equally important that while expressing their opinions, the Judges must be guided by consideration of justice, fair play and restraint. It would not be frequent and sweeping generalizations defeat the very purpose for which they are made.

8. Likewise in the case of State of West Bengal & Ors. vs. Babu Chakraborty (2004) 12 SCC 201, the Supreme Court Observed that the observations/strictures made against the learned M.M by the High Court without giving an opportunity of being heard, is violative of catena of pronouncements of the Apex Court and that harsh or disparaging remarks are not to be made against the persons and Authorities whose conduct comes into consideration before the Court of law unless it is really necessary for the decision of the case.

9. Similar observations have been made in case State of Maharashtra vs. Public Concern for Governance Trust & Ors., AIR 2007 SC 777; Dr. Dilip Kumar Deka & Anr. Vs. State of Assam & Anr. (1996) 6 SCC 234, wherein the Apex Court cautioned superior courts to use temperate and moderate language and also held that opportunity be given to the affected party before recording of adverse remarks by the Court.

10. Reliance has also been placed on Rajiv Ranjan Singh 'Lalan'(VIII) & Anr. Vs. Union of India & Ors. (2006) 6 SCC 613; DCP vs. Badlu Paswan & Ors. W.P.(Crl.) No.3034/2015; State vs. Yogender Singh W.P.(Crl.) No.139/2015; Rakesh Chand vs. State of NCT of Delhi WP (Crl.)No.207/2015; State vs. Jahid WP (Crl.) 1771/2013 decided on 12.11.2013; State of West Bengal vs. Mir Mohammad Omar & Ors. (2000) 8 SCC 234; Ravinder Kumar Tyagi v. State 2012:DHC:4720:DB; State of WB & Ors. v. Babu Chakraborty (2004) 12 SCC 201; State of Maharashtra v. Public Concern for Governance Trust & Ors. (2007) 3 SCC 587; State of Punjab v. Shikha Trading 2023 SCC OnLine SC 1076; and Sanjay Kumar Sain v. State of NCT of Delhi 2023 SCC OnLine Del 1260.

11. It is further submitted in the Petition that the learned Special Judge has failed to appreciate that the administrative powers to run the Police Department are subject to Service Rules and Conduct. If an Officer appointed by Delhi Police is not working properly or is oblivious of law, then the action can be initiated against him only as per the settled principles and procedures of law. For initiating any Departmental action, a Show Cause Notice is required to be issued and an explanation called from the Delinquent Officer. If the explanation provided is found to be satisfactory, then the Show Cause Notice is dropped and if it is not found satisfactory, then Departmental Enquiry is initiated for which Chargesheet has to be drawn and procedure as established by law is required to be followed to conclude if any wrong is committed by the Delinquent Officer.

12. The learned Special Judge has failed to appreciate that vide the impugned direction, virtually the guilt of the concerned Police Official has been decided

even without ascertaining their names and even without calling any explanation. Pertinently, the directions have been issued against the Officers, who were not even a party to the lis. The remark/directions may cast a serious aspersion on the police officials affecting their character and reputation and ultimately their service record. Condemnation of police officials acting in their official capacities ought not to be ordinarily undertaken by the Courts while adjudicating petitions on merits. Hence, a prayer is made that the remarks and directions issued against the Delhi Police in the paragraph 24 and 25 of the Order dated 10.02.2016 be set aside.

13. The Respondent Trishla Jain in her Reply has asserted that learned Sessions Judge has rightly directed Ministry of Home Affairs to conduct a Department Enquiry against the Delinquent Police Officials who failed in their statutory duty and violated the fundamental rights of the Respondent. The learned Sessions Judge in his well reasoned Order, specifically pointed out the callous approach of the Police Officers in dealing with such a sensitive case. In the unfortunate incident of 09.02.2014, body of deceased (son of the Respondent) was found hanging under mysterious circumstances. She, on getting information about the incident, rushed urgently from Meerut to Delhi. The investigations were conducted by the Police and Forensic Experts. The Postmortem of the deceased was conducted on 10.02.2014 and it reported as many as 14 ante mortem injuries and the cause of death was stated as Asphyxia due to ante mortem hanging which were sufficient in ordinary course of nature to cause death. In the opinion of the Doctors, five of the injuries were caused by pointed object while two injuries were caused by the use of sharp weapon. However, no FIR was registered by the Police.

14. In her Complaint dated 15.02.2014 to the Commissioner of Police, a copy of which was mark to Police Station Sarai Rohilla, the Respondent requested them to register an FIR of murder against the accused and others, but no action was taken by the Police.

15. Pertinently, the Respondent visited the Police Station Sarai Rohilla for getting the FIR registered, but she was told that they were holding an inquiry about the phone call details of the deceased and the accused. Police also informed that a detailed review of postmortem report by a panel of doctors was recommended. The Police did not make any efforts to record the statement of the Respondent. Despite elapse of four months and no registration of FIR by the Police, the Complaint dated 16.06.2014 was made by the Respondent addressed to DCP, District North, Delhi, despite which no action was taken.

16. Aggrieved by this inaction by the Police Officials, the Respondent was compelled to file a Criminal Complaint under Section 200 Cr.P.C against the accused on 04.08.2014 accompanied with an Application under Section 156(3) Cr.P.C. The Action Taken Report was submitted by the Police Officials, the bare perusal of which reflects that the Police Officials failed to discharge their statutory duty under Code of Criminal Procedure and their approach was reckless

and negligent. The learned M.M dismissed the Application under Section 156(3) Cr.P.C by its Order dated 20.10.2015.

17. The learned ASJ, however, allowed the Revision Petition of the Respondent by Order dated 10.02.2016 and directed an express concern over the conduct of the Police Officials and directed the Ministry of Home Affairs to initiate Departmental Action against them. The Respondent further asserted that despite registration of FIR No.216/2016 P.S. Sarai Rohilla, several Investigating Officers have been changed and the investigations have been transferred to DIU, North in an arbitrary manner. The investigations have not been conducted expeditiously.

18. The Respondent thus, filed W.P. (Crl.)672/2018 before this Court for directing the investigations to be completed in a time bound manner and the Chargesheet be filed without delay. This Court also took note of the investigation not been conducted in a proper manner and that there was unnecessary delay due to the acts of Police Department. It is asserted that learned ASJ has rightly observed about the dereliction of duty by the concerned Police Officials.

19. The reference has been made to Lalita Kumari vs. Government of Uttar Pradesh and Others, 2014(2) SCC 1, wherein it has been directed that wherever a complaint discloses commission of a cognizable offence, the FIR is required to be mandatorily registered. The Police had deliberately disobeyed the directions of the Apex Court and the directions given by learned ASJ are fully justified.

20. In the present case, the investigations were commenced after a gap of two years. It is, therefore, submitted that there is no infirmity in the Order of learned ASJ directing a Disciplinary Action and the present Petitions are liable to be rejected.

21. Further reliance has been placed on the case of Pankaj Kumar vs. State of Maharashtra and Ors. (2008) 16 SCC 117; Babubhai vs. State of Gujarat and Ors. (2010) 12 SCC 254; wherein directions have been issued by the Courts after giving them a reasonable opportunity.

22. Submissions heard and record perused.

23. The deceased Vichal Jain, son of the Respondent-Mrs. Trishla Jain was doing the business of handicrafts in Meerut and had rented premises in Delhi. He was in relationship with Tavishi Chandra and they used to reside together in the rented flat, as and when the deceased visited Delhi. On the day of incident admittedly, Tavishi Chandra and the deceased were together for the night of 08.02.2014. On 09.02.2014 Tavishi Chandra left in the morning at about 08:30 A.M, but when she came back at 09:30 A.M, she found the deceased hanging with a rope. She informed the Police and told that she had cut the rope with which the deceased was hanging with the help of a knife and had brought him down. The Post Mortem Report reflects as many as 14 injuries, out of which 5 injuries were caused by pointed object and 2 injuries by a sharp object. All the injuries were stated to be ante mortem.

24. It is an admitted fact that the deceased was found dead in mysterious circumstances with multiple ante mortem injuries on his body. The Respondent Trishla Jain, mother of the deceased had given a complaint on the next day itself, but the Police for the reasons best known, chose not to register the FIR on the pretext that they were conducting an Enquiry.

25. In the case of Lalita Kumari (supra), the Apex Court has clearly stated that when on a complaint a prima facie cognizable offence is disclosed, the registration of FIR is mandatory. It is not a case where there was preliminary Inquiry required to ascertain if it was an unnatural death. The circumstances, as described above, with 14 ante mortem injuries justify the immediate registration of FIR. There are specific averments that despite the Respondent approaching the Police Officials regularly, she was being given the carrot of the investigations being conducted and that the opinion of panel of Doctors in regard to the Post Mortem Report, was being obtained. Clearly, it was a case where FIR should have been registered immediately on the complaint of Smt. Trishla Jain.

26. There is no explanation forthcoming from the Police Officials for not registering the FIR. Pertinently, the efforts of the Respondent to get the FIR registered under Section 156(3) Cr.P.C did not meet the approval of the learned M.M and it was only the intervention of the learned ASJ by Order dated 10.02.2016 that the FIR No. 216/2016 P.S. Sarai Rohilla was eventually registered. It is also pertinent to observe that the investigations in right earnestness were still not commenced for two years on the FIR. The learned ASJ in the circumstances was not unjustified in observing that there was dereliction on the part of Senior Police Officials and SHO/DCP of Police Station Sarai Rohilla. The observations made by the learned ASJ are as under:

"24. The status reports filed on record before the Ld. Trial Court and the case file produced before this court, had indicated a careless attitude and dereliction of duties, on the part of the SHO P.S. Sarai Rohilla, as well as the senior police officers, including the then DCP, North District and the concerned incharge of the complaints cell at P.H.Q., New Delhi. None of the senior officers, including the Commissioner of Police, have called for any report from the SHO concerned and they have also failed to supervise the complaints filed by the revisionist, in their offices, at different times.

25. A copy of this order be sent to the Secretary (Home), Government of India, North Block, New Delhi for his information and for taking appropriate disciplinary action against the concerned senior officers of the Delhi Police and SHO concerned, as the Ministry of Home Affairs, Government of India, is the cadre controlling authority of these senior officers of Delhi Police. An action taken report be also submitted by the Secretary, Home Affairs, Government of India, North Block, New Delhi, to this court, within a period of six weeks from today."

27. There are no disparaging remarks that have been made, but it is a clear observation of dereliction of duty by the Police Officials, which in the

circumstances was fully justified. It is not as if any strictures or adverse remarks have been made, but it is an observation made in the background of the facts as already narrated. It cannot be, therefore, said that the learned ASJ failed to exercise any restraint, or his conduct was not in consonance with the High Court Rules, which discourage making of any strictures and observations against the Police Officials. Furthermore, it is the anguish of the learned ASJ in the facts of the case and blatant disregard to the established procedure as also explained by the Apex Court in various judgements, that FIR be registered on the Complaint disclosing a cognizable offence, before commencing any inquiry, which got reflected when he recommended disciplinary action to be taken against the erring Police Officers namely the DCP and the SHO. It may hereby be clarified that when Disciplinary Action has been recommended, it is not directed that Departmental Enquiry be initiated. However, what has been recommended is that Ministry of Home Affairs being the Appointing Authority of the Police Officials, over whom they have the superintendence, to look into the conduct of these Police Officers to ascertain whether there was in fact any dereliction of duty and any action is warranted against them. It is needless to state that any Enquiry which may be initiated by the Ministry of Home Affairs would necessarily be done in accordance with the procedures.

28. There is no infirmity in the impugned Order dated 10.02.2016. The Compliance Report of Inquiry in regard to dereliction of duties by the Petitioners be submitted before the learned Trial Court within six weeks.

29. Both the Petitions stand disposed of along with the pending Application(s), if any.