

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(Crl.) No. 1622/2007**

% Judgment delivered on: 17.09.2009

Ashok Kumar petitioner.

Through: Mr.Krishan Kumar for the petitioner.

versus

Lt.Governor of Delhi & Anr. Respondent

Through: Mr. Rajat Katyal proxy counsel for the State.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

KAILASH GAMBHIR, J. Oral

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1. By way of the present petition filed under Article 226 the petitioner seeks directions to quash and set aside the impugned order dated 29.3.2007 and allow his application dated 31.7.2006, whereby the petitioner sought sanction of the Lt. Governor to seek prosecution of the police officials.

2. Brief facts of the case relevant for deciding the present

petition are that:

The petitioner is one of the legal heirs of deceased Ram Lal. As per the petitioner, late Shri Ram Lal was a victim of the conspiracy hatched by the Chairman, the Directors and officials being in charge of day- to-day affairs of ICICI Bank Ltd., along with other unknown and known persons. Late Ram Lal, father of the petitioner was fraudulently induced to purchase a car and in that process he was deceived by various acts and omissions of the persons namely Dinesh Singh Pathania and Diler Singh who represented themselves to be the officials of ICICI Bank Ltd and consequently he suffered losses to the tune of Rs.30,000/-. The petitioner's father late Ram Lal, made a complaint dated 20.9.2005 at P.S. Mandawali for appropriate legal action against all the offenders. Petitioner's father personally met the then SHO, P.S. Mandawali i.e. Inspector Ram Chander Sangwan and also Sub Inspector Mangesh Tyagi but in spite of being assured by the said officials no action was taken by them to register a case. Petitioner's father late Ram Lal being suspicious of the mala fide intentions of the officials filed a criminal complaint before the learned ACMM, Karkardooma Courts, Shahdara, Delhi with a further prayer to direct the concerned SHO to register and investigate the case. The learned M.M. directed the concerned W.P.(Crl.) No. 1622/2007

SHO to file action taken report and pursuant to the direction the Action Taken Report dated 27.3.2006 was submitted before the said court. In the said report it was revealed that the said two officials had deliberately failed to register the case as required under Section 154 Cr.P.C. Thereafter, the petitioner preferred a detailed petition dated 31.7.2006 before the respondent no.1 seeking grant of sanction to prosecute the offenders. However, no action was initiated by the respondent and the Commissioner of Police on the said petition dated 31.7.2006 which led to filing of another application dated 3.10.2006. Feeling aggrieved with non-action on the part of the respondent the petitioner moved a petition before Delhi High Court bearing W.P.(Crl.) No.2894/2006 seeking directions against the respondent and the Commissioner of Police. The said petition was disposed of with direction to the Lt. Governor to decide the application of the petitioner within two weeks from the date of receipt of the said order. In spite of said directions the respondent failed to comply with the same which further led to filing of an application dated 24.3.2007 seeking appropriate directions. This court vide order dated 26.3.2007 issued contempt notice against the respondent. The respondent passed the impugned order 29.3.2007. Vide order dated 6.7.2009 liberty was granted to petitioner to challenge the impugned order W.P.(Crl.) No. 1622/2007

dated 29.3.2007. Being aggrieved with the said order the petitioner preferred the present petition.

3. Counsel for the petitioner submits that even as per the action taken report filed by the police, it would be evident that the amount of the loan was advanced by one Diler Singh who also took guarantee for the loan amount. Counsel further submits that neither the petitioner ever approached the said Diler Singh for the advancement of the loan amount nor was he aware that any such agent has been appointed by the bank. Counsel further submits that the loan amount of Rs.85,000/- was in fact sanctioned for the purchase of a second hand vehicle and as per the records of the bank the said loan amount was disbursed in favour of M/s. Auto World Marketing in September, 2004 but in spite of the above sanction only an amount of Rs. 64,145/- was paid to the father of the petitioner. Counsel thus submits that the father of the petitioner was cheated by the bank and the said unauthorized agents of the bank. Counsel further submits that the complaint was filed at Police Station, Mandawali and the then SHO Ram Chander Sangwan and S.I. Mangesh Tyagi, who because of their being hand in glove with the said unauthorized agents of the bank did not take any action. Counsel further submits that

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steps were taken by the petitioner in filing an application under Section 156(3) Cr.P.C., and pursuant thereto directions were given by the concerned Magistrate for registration of an FIR. Counsel further submits that the application was filed by the petitioner to seek prosecution of the police officials but the said request of the petitioner has been declined by the Lt. Governor for unjustified reasons.

4. I have heard learned counsel for the parties at considerable length.

5. Counsel for the State has pointed out that the police has already filed closure report in the said FIR No.50/2006 and being dissatisfied with the closure report therewith the petitioner has also filed a protest petition which is pending disposal before the concerned court. In the present petition the petitioner has not challenged the said closure report and rightly so because the petitioner is awaiting outcome of his protest petition. The petitioner in the present case has assailed the order dated 29.3.2007 whereby the application of the petitioner seeking prosecution of the said police officers was rejected by the Lt. Governor. The petitioner has not advanced any argument so as to challenge the reasoning given by the Lt. Governor in the said order rather he has been agitated so far as the action of the police W.P.(Crl.) No. 1622/2007

officials and the said unauthorized agents of the bank were concerned. Perusal of the order dated 29.3.2007 clearly shows that Lt. Governor took prima facie view of the matter and based on that reached to the conclusion that the allegations leveled by the petitioner appeared to be of a civil nature. It was also found by the Lt. Governor that the police had taken action to register an FIR on the direction of the learned M.M. and at that point of time the investigation was still in progress. It was further found that the assessment of the police officials did not appear to be suffering from any deliberate misapplication of law. Based on the said assessment, the Lt. Governor found that the application of the petitioner seeking prosecution under Section 197 Cr.P.C. against the police officials was devoid of any merit.

6. I do not find any illegality or perversity in the said impugned order passed by the Lt. Governor.

7. There is no merit in the present petition.

8. Dismissed.

September 17, 2009
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KAILASH GAMBHIR,J