

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

Date of Reserve: July 26, 2010

Date of Order: August 06, 2010

+ W.P. (Crl.) 1339 of 2008

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06.08.2010

RAKESH DHAWAN

..... Petitioner

Through: Ms. Geetha Luthra, Sr. Advocate

versus

COMMISSIONER OF POLICE & ORS.

..... Respondent

Through: Ms. Meera Bhatia, ASC for State

Mr. Rajpal Singh and Mr. Rohit Kumar for R-6 to 11.

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

1. Present petition was filed by the petitioner with the prayer that the Court should give directions to respondent to protect the life and liberty of the petitioner and his family members and that the Court should also direct the respondent to register an FIR against the accused persons named in the complaints dated 10th June, 2008 and 11th August, 2008 under Section 406, 419, 420, 467, 468, 471 & 506 of IPC read with Section 120-B thereof and action should be taken against the police officials for not registering the FIR.

2. When the petition was taken up on 23rd April, 2009, this Court gave directions in respect of prayer seeking protection and directed the respondent to

ensure that no physical harm was caused to the petitioner. Regarding complaints, directions were given to the respondent to file Action Taken Report/Status Report. It was reported to the Court by the respondent (State) that the matter was referred to vigilance department of Central District and the inquiry was being conducted into the allegations made by the petitioner.

3. Status Report filed by the respondent shows that the allegations were made by the petitioner regarding the forging of a resignation letter. The petitioner is a member of a Trust and the petitioner's contention was that he had never resigned from Governing Body of the Trust, however, a forged resignation letter was prepared by some of the persons and he was shown to have resigned from the Trust. The respondent (police) referred the resignation letter to FSL and the report of FSL showed that resignation letter dated 13th August, 2006 did bear the signatures of the petitioner. However, no opinion in respect of authenticity of other documents purportedly sent by the petitioner was given by the FSL. The police, therefore, came to conclusion that no case was made out for registration of FIR or action against the respondent.

4. It is argued by counsel for the petitioner that a comparison of signatures of the petitioner could have been done only with an admitted signature of him and it was not known which signatures of the petitioner were sent to FSL, therefore, the Court should ignore the report of FSL and give directions for registration of FIR.

5. It is settled law that where unfounded or vague allegations are made, police had a right to conduct preliminary enquiry before registration of FIR. In the present case, the petitioner, who was one of the members of the Trust had alleged that he had not resigned from the previous Governing Body of Trust and it was wrongly considered that he had resigned from the Trust. The letter acted upon by the Governing Body was not written by him.

6. The allegations and counter-allegations in respect of management of Society/Trust is a common thing and the police had done nothing wrong by first verifying whether the resignation letter was actually sent by the petitioner or not. Police sent admitted signature of petitioner for comparison with disputed signature. FSL report showed that resignation letter was signed by the petitioner.

7. Once the police had come to a conclusion that the letter sent by the petitioner was not forged, I find no reason why FIR should have been registered by the police. I, therefore, find no force in the prayer for registration of FIR made in the petition. The petition in respect of this prayer is dismissed. The relief of protection has already been granted.

AUGUST 06, 2010
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SHIV NARAYAN DHINGRA, J.