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

+ WP(CRL.)127/2010

DEVI RAM MEENA Appellant
Through: Mr. Puneet Khurana, Adv.

versus

STATE GOVT. OF NCT OF DELHI Respondent
Through: Mr. Sunil Sharma, APP.

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

ORDER
28.08.2012

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1. This is the third round of writ petition filed by the petitioner under Article 226 of the Constitution of India seeking the following directions:-

(a) To issue direction to Commissioner of Delhi Police to file the status report in form of his affidavit regarding the action taken till date in the above noted case.

(b) To issue direction to Joint Commissioner (Crime) to file affidavit regarding the investigating done under his supervision as per the order dated 1.11.2004 passed in the writ (crl.) petition no.1176/2003.

(c) To issue direction to register FIR against the police officials along with IO SI Mahesh Pandey under Sections 217/218/219/120-B IPC and other provision of law.

(d) To issue direction to Commissioner of Police to show as to how Kapil Meena, the main accused was alongwith other co-accused Sandeep and Pradeep FIR No.506/2003 under Section 365 IPC/34 IPC, PS:R.K. Puram joined as Constable Driver in Delhi Police.

(e) To pass any order in favour of the petitioners and against the interest of justice.

2. On notice being issued, the State filed its Status Report. In the Status Report, it has been stated that so far as the present case is concerned, on 17.8.2003, Devi Ram, r/o Sector-5/1020, R.K. Puram, New Delhi came to the Police Station: R.K. Puram, New Delhi and reported that his daughter, Sunita Meena, aged 21 years went out of her house at around 2:30 P.M. and has not returned till date. He suspected the hand of Sandeep, Pradeep Meena and Kapil Meena in the kidnapping of her daughter. Accordingly, FIR No. 506/2003 under Section 365 IPC was registered by PS: R.K. Puram, New Delhi and the investigations were taken up by the local police. The investigations were transferred to Anti Kidnapping Cell of the Crime Branch in terms of the order of the High Court.
3. In the first round of litigation, the petitioner filed writ petition for habeas corpus bearing WP(Crl.) 1176/2003, which was disposed of vide order dated 1.11.2004. A direction was given by the High Court to the Investigating Agency that it shall continue its efforts to trace the girl till the time any fruitful result is achieved. The Joint Commissioner of Police was directed to review the progress periodically after every three months. The petitioner was also

given the liberty to approach the Joint Commissioner of Police and suggest the steps to be taken by them. After the writ petition was disposed of, the petitioner moved CrI.M.A. No.9039/2005 in the said disposed of writ petition. The said application was also disposed of.

4. The second writ petition bearing WP(CrI.) 356/2009 was filed by the petitioner in the year which was also disposed of by the Division Bench on 24.3.2009 by redressing the grievance of the petitioner that the Joint Commissioner of Police shall meet the petitioner at 6:00 P.M. on the same date to hear his grievance and apprise him of the developments. It was further stated that every effort shall be made by the local police to retrieve the girl. This writ petition was essentially filed by the petitioner to raise the grievance that the Joint Commissioner of Police has not complied with the directions of the Court by not reviewing the case after every three months.
5. The present writ petition is the third in the series of petitions where the petitioner has again asked the Joint Commissioner of Police to file the Status Report, as he feels dissatisfied on account of non-recovery of his daughter. No doubt, it is very painful that the petitioner has lost his daughter and the Police has not been able to locate her or arrive at a definite conclusion

as to what was the reason for her disappearance, but the Investigating Agency also has its own limitations, which the petitioner, as an aggrieved and effected person, has failed to understand and appreciate. The Joint Commissioner of Police has already given him a hearing. The local police have also enlisted the various steps which have been taken by them which are quite elaborate as stated in their Status Report.

6. The steps taken by the Respondents are as under:-

1. That the house of Kapil Meena was visited by the I.O. where his brother Naresh Meena met him and told that earlier the petitioner had come and enquired about his daughter from Kapil, who told him that about a year prior to kidnapping, Sunita was studying in his college.
2. That the suspect Kapil Meena has been interrogated at length, repeatedly at the office of Anti Kidnapping section.
3. That the suspect Pradeep Meena has been interrogated at length at the office of Anti Kidnapping Section.
4. That the suspect Sandeep has been interrogated at length, repeatedly at the office of Anti Kidnapping section.
5. That the complainant suspected involvement of one Ram Kumar Meena in the kidnapping of his daughter who was repeatedly interrogated but no clue.
6. That the polygraph test of suspects Kapil and Pradeep was got conducted at C.F.S.L., C.G.O. Complex, New Delhi and as per the report there was no deceptive response.
7. That the petitioner had stated that suspect R.K. Meena told him that he had met victim Sunita in Jaipur after 15.8.2003, i.e., the date of her kidnapping.
8. That R.K. Meena was subjected to polygraph test and questions were asked in this respect and he denied having

met the victim Sunita in Jaipur. As per the polygraph result there was no deception in his response.

9. That search was carried out and enquiries were made from the friends of missing girl and the suspects and their relatives.
10. That hue and cry notices were got widely circulated.
11. That on 28.12.2003 pursuant to information that one lady Sunita is living with a tailor at Palam, an enquiry was conducted. However, the said Sunita was found to be another lady.
12. That the petitioner had stated that he suspected the involvement of one Hattiram Meena in the kidnapping of his daughter and alleged that Hattiram Meena had made threatening remarks against him to one Supol Meena R/o Village Birpur, District Dausa, Rajasthan in front of one Bhura Meena R/o Village Hurhla, District Dausa, Rajasthan. Supol Meena who came along with the complainant at the office of Anti Kidnapping Section, Crime Branch was interrogated. Thereafter, Bhura Meena was interrogated who stated that he along with Hattiram Meena was passing through the road near Birpur Village, native village of the complainant and had talks with Supol Meena but there was nothing like extending threats. Hattiram Meena was interrogated who stated that he had gone to his village due to the demise of his elder brother to attend the last rites of his brother.
13. That the polygraph test of suspect Hatti Ram Meena was got conducted and the report stated that there was no deceptive response.
14. Photograph and details of the missing girl were sent to Doordarshan from time to time for wide publicity.
15. That the photographs and details were also circulated in newspapers name Times of India and Dainik Jagran on 18.2.2004. The photograph and details of the missing girl were again published in newspapers namely Hindustan, Hindustan Times, Times of India, Navbharat Times and Amar Ujala on 26.9.2004. The advertisement carrying the details and the photographs was again got published in leading newspapers of Delhi and Rajasthan on 28.1.2005.

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16. That pursuant to the advertisement published in the newspapers, information was received in the office of Anti Kidnapping Section that the missing girl Sunita Meena was seen in Sikar, Rajasthan. The information was followed up and extensive search was made in and around the area of Sikar, Rajasthan to trace the missing girl but there was no clue.
 17. That the photograph and details of the missing girl was again published in newspapers namely Hindustan Times (all editions of Uttar Pradesh), Dainik Jagran (all editions of Uttar Pradesh), Dainik Bhaskar (all editions of Haryana), Hari Bhoomi (all editions of Haryana), Punjab Kesari (Delhi) and Rajasthan Patrika (all editions of Rajasthan) on 23.12.2005.
 18. That thereafter information was received from CBI/CIC that the girl Sunita Meena was seen at Kannauj, UP. Immediately a police team of Anti Kidnapping Section along with Inspector R.K. Sharma of CBI/CIC went to kannauj on 27.12.2005 which made enquiries and found that the said woman, Ms. Sangeeta Sharma, was not the missing girl Sunita Meena. Her description did not match with that of missing girl, Sunita Meena.
 19. That pursuant to it, the complainant handed over a copy of a letter and stated that he had received the letter by post at his residence. The letter contained the information sent by a resident of Labour colony, Dada Colony, Kanpur stating that one Sunita Singh Chauhan was residing at Sarvajanik Shiv Mandir, Dada Nagar, Labour Colony, Kanpur, UP. The information was followed on 5.1.2005 and it was found that the said girl was not the missing girl Sunita Meena. Enquiries from people showing them the picture of Sunita Meena were made but there was no clue.
 20. That the complainant also sent by post a photocopy of the letter received by him in which it was informed that the victim was living in the area of Lalganj, Basti, UP. The information was followed up on 8.5.06 and it was found to be incorrect.
 21. That the details and photograph of the victim were again published in the newspapers namely Hindustan Times (Delhi), Amar Ujala (Delhi, Haryana and Uttar Pradesh) and Rajasthan Patrika and Dainik Bhaskar (Rajasthan) on 25.6.07.

22. That the details and photograph of the missing girl were provided to Win Cable & Datacom Pvt. Ltd, AB 12, Safdarjung Enclave, New Delhi with the request to telecast the details through their network in entire Delhi. The same was telecast for wide publicity.
23. That the details and the photograph of the missing girl have again been published in the newspapers of Delhi, Rajasthan and Uttar Pradesh on 9.11.08.
24. That the details and photograph of the victim were again published in the newspaper namely Punjab Kesari (Delhi), Dainik Jagran (UP), Dainik Bhaskar (Haryana) and Rajasthan Patrika on 19.11.09.
25. That the details and photograph of the victim were again published in Hindustan (Delhi edition), Amar Ujala (UP Edition), Bhaskar and Rajasthan Patrika (Rajasthan Edition) on 14.8.2010.
26. That the details and photograph of the missing girl were again published in Punjab Kesari (Delhi and Haryana edition), Amar Ujala (Delhi and Haryana edition), Navbharat Times (Delhi edition), Dainik Jagran (Uttar Pradesh edition) and Rajasthan Patrika (Rajasthan edition) on 23.3.2011.
27. That a reward of ₹ 25,000/- has been declared to generate public interest.
28. That the petitioner complained that he received threatening calls. His telephone was put under observation but there was no result.
29. That on 15.2.2004, one telephone number given by the complainant from which one unknown person Rohit was calling was got checked and it was found to be of local PCO but no clue was found.
30. That the complainant received a call from another unknown person who stated that he knew the whereabouts of the girl and during enquiry it was revealed that call was made from STD booth and Kotla Mubarakpur. The STD attendant was unable to furnish details which could help establish the identity of the caller.

31. That enquiry from S.D. Govt. Girls Senior Secondary School, Sector-5, R.K. Puram from where the missing girl had done her schooling has also been made.
32. That enquiry at Gargi College, Khel Gaon Marg, where the missing girl was last studying, was conducted where some of her classmates stated that the girl was under depression. The enquiry at Gargi College also revealed that the missing girl had failed in her first year B.El.Ed. examination and this fact she had concealed from her parents.
33. That regular follow up is being done with CIC of CBI and NCRB. No fruitful clue has been received by them so far.
34. That record in respect of UIDBs was also checked several times.
35. That the friends of Sunita, the missing girl, were interrogated.
36. That the complainant produced one letter supposed to be written by Rohit, stating that Kapil and Pradip are responsible for the alleged kidnapping and the petitioner should withdraw his case. Pradip and Kapil Meena were interrogated but they gave denied the same. The specimen handwriting of suspects Kapil Meena and Pradip Meena were sent to FSL, Rohini for comparison with the letter. The result of the document expert from Forensic Science Laboratory, Rohini, New Delhi was received and the expert opined that the specimen handwritings did not match with the questioned document i.e. the letter received by the complainant.
37. That several requests to Superintendent of Nari Niketan, Short Stay Home and Nirmal Chaya have been made from time to time for any information regarding Sunita but no clue.
38. That WT message to all Jail Superintendents was flashed for any information regarding Sunita. The replies in this regard have been received but there is no clue.
39. That mobile companies viz. Hutch, Airtel, Idea, Dolphin and Trump were requested to furnish the details of mobile numbers of their network that contacted Kapil Meena's residence static phone during August 2003 to find out the mobile phone number used by him during August, 2003. The details were received but there was no clue.

40. That the Crime Branch has also interrogated all the suspects repeatedly.
41. That information was given to Directors of Social Welfare Departments of UP, Delhi, Chandigarh and Punjab to inform us in case the missing girl is lodged in any of their women institutions/homes.
42. That various Arya Samaj Mandirs were checked to ascertain whether the victim had married or not but no clue could be found.
43. That the MTNL Exchange at Bhikaji Cama Place was visited to ascertain the calls received at the telephone no.26197602 installed at the residence of the complainant where it was revealed that only records of outgoing STD calls are maintained.
44. That information to Sudinalay, a shelter home for women at Sunlight Colony, has been given but no clue.
45. That now petitioner has filed present application alleging that suspect Kapil Meena has been inducted as constable driver in Delhi Police even though his name was involved in FIR No.506/2003 u/s 365 IPC PS:R.K. Puram and that shows the connivance of police with him.
46. That Kapil Meena s/o Shri Gopi Ram Meena r/o RZH-59, Raj Nagar, Part II, Palam Colony, New Delhi has not been arrested in case FIR No.506/03 u/s 365 IPC P.S. R.K. Puram, Delhi. The case is pending investigation with Anti Kidnapping Section of Crime Branch. During investigation Kapil Meena has been repeatedly interrogated and his polygraph test was got conducted but nothing adverse has come against him showing his involvement.
47. That alleged Kapil Meena has been appointed as Constable Driver Police and is presently posted in P.C.R. Unit of Delhi Police. Scrutiny of the attestation from submitted by Kapil Meena reveals that he concealed the fact that he has been named in case FIR No.506/2003 u/s 365 IPC P.S. R.K. Puram, New Delhi.
48. That a letter was sent to DCP/PCR informing about the concealment of facts on the part of Kapil Meena and for

initiating appropriate action against the alleged constable driver Kapil Meena.

49. That Kapil Meena was placed under suspension for concealment of these facts by DCP (PCR) on 18.12.09 and a departmental enquiry was initiated against him. He was dismissed from service on 25.10.10.
50. That as directed by the Hon'ble Court on 24.3.09 the complainant was heard on the evening of 24.3.09 itself by the Jt. Commissioner of Police, Crime, Delhi. Thereafter, the entire case was reviewed by Jt.CP/Crime with the ACP and IO and necessary directions were given.
51. That on several subsequent occasions too, as also admitted by the petitioner in the present writ petition, Jt. CP/Crime has heard the petitioner with empathy and patience and points raised by him have been clarified with the ACP and IO.
52. That all out continuous efforts shall be made to trace the missing person Sunita Meena.

7. For the reasons mentioned above, I feel that the first two prayers of the petitioner are totally untenable. So far as the direction for registration of an FIR against the Investigating Officer for various offences under IPC is concerned, I feel that this is nothing but the desperation of the petitioner on account of non-recovery of his daughter. The Supreme Court has laid down in a number of cases that the High Court should not issue directions for registration of an FIR and the party must be left to seek the recourse in accordance with law either to lodge a report with the police in case a cognizable offence is committed or alternatively to approach the Criminal Court and file an appropriate complaint. Reliance in this regard is placed on

Aleque Padamsee & Ors. -vs- Union of India & Ors., (2007) 6 SCC 171 and *Sakiri Vasu -vs- State of U.P. & Ors.*, (2008) 2 SCC 409. This remedy is always open to the petitioner. Therefore, this prayer is also not tenable. So far as the third prayer is concerned, he has sought the explanation to be obtained from the Commissioner of Police as to how Kapil Meena was able to join the services, against whom an FIR was registered. The Status Report indicates that the said fact was concealed by Kapil Meena from the Police authorities and the moment it was brought to their notice, he was dismissed from his services. Having dismissed Kapil Meena from his services, I feel that this prayer also is not tenable that the Court must call for an explanation. The Court has certain limitations of its own. It cannot act as a disciplinary authority so as to call for an explanation from various officials on whom it exercises jurisdiction. On the contrary, I feel that the petitioner has not been fair by filing repeated petitions on the same subject. Though his grievance has remained unredressed in the sense that he has not been able to get his daughter traced, I feel that the petition, being the third in the line, is, in a way, a gross abuse of the processes of law and feel that the petition does not deserve to be entertained.

8. Accordingly, the petition is dismissed.

AUGUST 28, 2012

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V.K. SHALI, J.