

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

% *Judgment Reserved on: July 9, 2013*
Judgment Delivered on: July 17, 2013

+ **W.P.(C) 8079/2012**

GOPAL LAL MEENA Petitioner
Represented by: Mr.Amrit Pal S.Gambhir
and Mr.Mahesh Saroj, Advocates.

versus

COMMISSIONER OF POLICE AND ORS Respondents
Represented by: Mr.V.K.Tandon, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V. KAMESWAR RAO

PRADEEP NANDRAJOG, J.

1. On receipt of complaints that the petitioner Gopal Lal Meena, employed as a Constable with Delhi Police, was indulging in immoral activities and was using a lady named Sonia (with assumed name Spana) to lodge false FIRs alleging she being raped and thereafter compromising the matter with the accused on receipt of money, the matter was investigated and the competent authority opined that it was a case where it was not reasonably practical to hold an inquiry and thus exercising power under Article 311(2)(b) of the Constitution of India the petitioner was dismissed from service vide order dated November 24, 2005 which was successfully challenged by the petitioner before the Tribunal when OA No.2305/2006 filed by him was allowed on May 14, 2007, which decision was upheld by this Court vide order dated October 08, 2007 in WP(C)7392/2007. The

petitioner was reinstated in service and was proceeded against departmentally.

2. On January 01, 2009, as required by the Delhi Police (Punishment & Appeal) Rules, 1980 the following Summary of Allegations was served upon him:-

“It is alleged against Ct.Gopal Lal Meena, No. 1547/SD that in the year 2002-03-04 while posted at PS Nabi Karim, he developed illicit physical relations with Sonia @ Sapna W/o late Rakesh Kumar R/o A-660/4, Nabi Karim, Paharganj, Delhi. He had been living with her shamelessly being a married person defying all moral values. Later Sonia made a complaint against him in CAW Cell, Central Distt. where he admitted his physical relations and marriage with her and promised to pay her ₹1,20,000/- as compensation.

It is further alleged that he extorted ₹50,000/- in August 04 from Ct.Rajbir Singh by giving a complaint of rape through Sonia at PS Vasant Kunj.

It is further alleged that on 29.08.05 he accompanied Sonia @ Sapna to PS Parliament Street. He posed himself as Mahesh working in Govt. Press Minto Road and a union leader. Sonia @ Spana was alleging that she had been subjected to rape by one Micky Yadav. Ct.Gopal Lal Meena @ Mahesh was time and again trying to strike a financial deal with the accused under the garb of compensation to the victim. The police preferred to register a case vide FIR No. 247 dated 30.08.05 u/s 376 IPC. In the meantime Gopal Lal Meena @ Mahesh misbehaved with Inspr.Madanjit Singh the then SHO, PS Parliament Street, Inspr.Laxmi I/C CAW Cell New Delhi, W/SI B.Lakra and others.

The above said acts of Ct.Gopal Lal Meena No.1547/SD shows his desperate character and criminal propensity. The acts of the Ct. are highly undisciplined involving moral turpitude, violation of code of conduct, unbecoming

of police officer and shameful. He is liable to be dealt with departmental enquiry under Delhi Police (Punishment & Appeal) Rules 1980.”

3. The petitioner denied the allegations. An enquiry officer was appointed to record evidence and submit a report before whom the prosecution/departments examined 11 witnesses; namely : (i) Sh.Deepak Kumar, (ii) W/SI Meena Yadav, (iii) W/SI B.Lakra, (iv) Ct.Rajbir Singh, (v) Ct.Sajjan Singh, (vi) H.C.Ashok Kumar, (vii) W/Insp.Lakshmi, (viii) HC Anupam, (ix) HC Yogender Dutt, (x) Ct.Subash and (xi) Insp.Swadesh Prakash.

4. Sh.Deepak Kumar, PW-1 did not stand by his statement during preliminary fact finding inquiry and stated that he did not know about any complaint made by Sonia @ Sapna. He also stated that he did not know any person by the name of Gopal Lal Meena.

5. W/SI Meena Yadav PW-2, deposed that on August 25, 2005 while posted at CAW Cell, Rajinder Nagar, a complaint made by one Smt.Sonia against the petitioner was marked to her for enquiry. During enquiry Smt.Sonia, the complainant, submitted a written statement that she and the petitioner had reached a compromise where under the petitioner had agreed to pay her ₹1,20,000/- by way of compensation but he said amount was not received by Smt.Sonia and that Sonia never reverted to her. Later on she learnt that Sonia was arrested on the charge of lodging a false complaint of rape. At that stage she referred the matter to the Vigilance Bureau for further inquiry.

6. W/Insp.Lakshmi PW-7 deposed that on August 29, 2005 while she was posted at CAW Cell Smt.Sapna (who was later on identified as Sonia) came to the PS Parliament Street to register a case of rape against one Micky Yadav @ Prem. At that time she was accompanied by a person who claimed

to be her brother and disclosed his name as Mahesh stating that he was working at the Government Press, Minto Road. DCP Anita Roy asked her to give her report after speaking to the complainant i.e. Sapna. She tried to speak to the complainant in the presence of W/SI B.Lakra (PW-3) but the petitioner insisted that an FIR be registered and threatened to publish a press release against her. The petitioner became more aggressive and started hurling abuses at her and the DCP. The DCP also tried to talk to the complainant but on the persistent demand of the petitioner, FIR No.243/2005 for offence punishable under Section 376 IPC was registered against Micky Yadav @ Prem.

7. W/SI B.Lakra PW-3 deposed a version similar to that of PW-7, adding that during the course of investigation she learnt that Sapna's real name was Sonia and she had wrongly given the name of her mother to her as well as the fact that the petitioner had extorted ₹60,000/- from one Ct.Rajbir in the context of a false complaint made against him at petitioner's instance by Sonia.

8. Ct. Rajbir Singh PW-4 (to whom PW-3 had made a reference of in her deposition) deposed that sometime during the first week of August, 2004 while working at PS Vasant Kunj, he was summoned by the SHO. On reaching the office he saw Sonia sitting there who he knew from the time of his posting at PS Nabi Karim. She alleged that she was three months pregnant with his child. Before the SHO she falsely implicated him as having illicit relations with her. The SHO advised her to undergo a DNA test. She left the Police Station to return the next day. The SHO made her sit in the IO Room and deputed SI Swadesh Prakash to make an inquiry. Since he was present at the Police Station, he asked Sonia why she was levelling false complaint against him to which her response was that she will

speak whatever Gopal told her and they could speak to Gopal. He told her that he did not know where Gopal is posted and she replied that Gopal was posted in the office of the ACP, Lajpat Nagar. He contacted one Constable Subhash who happened to know him, the petitioner and Sonia. He told him that Sonia was falsely implicating him. After some time Subhash rang him on the phone and told him that Gopal was demanding ₹50,000/- to settle the matter. He told Subhash that he needed some time to mobilize the money and after doing so in around 2-3 hours he intimated the same to Subhash. Subhash came to the room of the IO and told Sonia to come out, saying that he had brought Gopal with him. Accompanied by Subhash, Sonia went out. Thereafter, Subhash contacted him on the phone telling him to come outside with the money. As he came out he saw Gopal, Sonia and Subhash. On seeing him, Subhash said to give the money to Sonia whereupon Gopal took the packet containing the money and handed over the same to Sonia. Thereafter Subhash took Sonia to the SHO and told him everything at which the SHO sent them to SI Swadesh Prakash who recorded the statements of Gopal and Sonia. Thereafter on October 24, 2010 upon being called to the Vigilance office he was questioned by ACP R.S.Chauhan regarding payment of ₹50,000/- to Gopal and Sonia. His statement was recorded and an FIR No.651/2005 for offences under Section 384/34 IPC was registered against them.

9. Ct.Subash PW-10 deposed in concert with the version given by PW-4. During cross-examination by the Defence Assistant, when question was put to him as to how he knew that Sonia had demanded money from Ct.Rajbir he replied that the petitioner had told him at the petrol pump near Vasant Kunj Police Station.

10. Inspr.Swadesh Prakash, PW-11, deposed that on October 31, 2005 while posted at PS Vasant Kunj he received an application from the SHO submitted by Sonia against Ct.Rajbir. Later during the course of enquiry Sonia withdrew the allegations gave a written statement that she had made the complaint due to some misunderstanding and she did not want any action to be taken regarding the complaint.

11. H.C.Ashok Kumar, PW-5, proved the FIR No.243/05 Ex.PW-5/A; HC Yogender Dutt, PW-9 proved the FIR No.651/05 Ex. PW 9/A.

12. HC Anupam PW-8 deposed regarding the transfer/posting orders pertaining to the petitioner and Order No.10060-10130/SD(P-II) dated November 24, 2005 whereby the petitioner was dismissed from service.

13. In view of the evidence led by the prosecution, as required by the Delhi Police (Punishment & Appeal) Rules, 1980 a charge was framed against the petitioner and served upon him on June 19, 2009. It reads as under:

“I R.S.Rathee, ACP/1st Bn. DAP Charge you Ct. Gopal Lal Meena No.1547/SD (Now) 4387/DAP (PIS No.28960723) in that while posted at P.S. Nabi Karim/Central Distt. in the year 2002-03-04 you developed illicit physical relations with Sonia @ Sapna w/o Late Rakesh Kumar r/o A-660/4, Nabi Karim, Paharaganj, Delhi. You had been living with her shamelessly being a married person defying all moral values. Later Sonia made a complaint against you in CAW Cell, Central Distt. Where you admitted your physical relations and marriage with her and promised to pay her ₹1,20,000/- as compensation.

You are further charged that you extorted ₹50,000/- in August 04 from Ct.Rajbir Singh, by giving a complaint of rape through Sonia at PS Vasant Kunj.

You are further charged that on 29.8.05 you accompanied Sonia @ Sapna to P.S. Parliament Street. You posed

yourself as Mahesh working in Govt. Press Minto Road and a union leader. Sonia @ Sapna was alleging that she had been subject to rape by one Micky Yadav. You were time and again trying to strike a financial deal with the accused under the garb of compensation to the victim. The police preferred to register a case vide FIR No.247 dated 30.08.05 u/s 376 IPC. In the meantime you, Gopal Lal Meena @ Mahesh misbehaved with Insp.Madanjit Singh the then SHO, PS Parliament Street, Insp.Laxmi I/C CAW Cell/New Delhi, W/SI B.Lakra and others.

The above said acts of you show your desperate character and criminal propensity. The acts of you are highly undisciplined involving moral turpitude, violation of code of conduct, unbecoming of police officer and shameful, which render you liable for punishment under the provisions of Delhi Police (Punishment & Appeal) Rules 1980.”

14. The petitioner chose not to produce any defence witnesses; but submitted a defence statement wherein he urged that a copy of the vigilance enquiry report was not provided to him and further that the copies of some documents/statements taken during the preliminary enquiry were not provided to him. He further pleaded that he had been characterised as desperate character and a person of criminal propensity. Lastly, he took the ground that it was a case of no evidence. Sapna, though cited as a prosecution witness could not be produced by the prosecution and there was no evidence of his illicit relationship with Sapna during the recording of evidence.

15. Considering the grounds urged in his defence statement, the enquiry officer returned a finding that the charge against the petitioner stood proved on account of the following factors: (i) that the petitioner had helped Sapna (whose real name was Sonia) to register a false case alleging rape against Micky Yadav, while posing as a union leader known as Mahesh. He had

used this false persona for putting undue pressure in the police station as was deposed by PW-3 and PW-4; (ii) the petitioner had clearly admitted to his physical relations with Sonia and marriage with a on the promise of payment of ₹1,20,000/- as compensation in CAW Cell; (iii) Sonia had lodged a complaint alleging rape against Ct.Rajbir and the next day the same was withdrawn by saying that it was lodged with some misunderstanding. The role of the petitioner in this also could not be ruled out, as was deposed by PW-10; (iv) that the petitioner and Sonia were co-accused and used to take the help of one another and were facing criminal charges for indulging in conspiracy.

16. The petitioner filed a representation dated August 12, 2009 against the findings of the Inquiry Officer. Rejecting the same, vide order dated September 24, 2009 the Disciplinary Authority held the petitioner to be guilty of the charges levelled dismissed him from service.

17. Aggrieved, the petitioner filed an appeal but the same was rejected by the Appellate Authority vide order dated February 01, 2010.

18. The petitioner once again approached the tribunal filing an Original Application registered as O.A.No.2072/2010 challenging the order dismissing him from service as well as the order rejecting his appeal. Before the tribunal, the petitioner contended that the findings in the enquiry report, the orders of the disciplinary authority and the appellate authority holding him guilty were based on no evidence. Secondly, it was urged that the disciplinary proceeding suffered from infirmity as he was unable to defend himself adequately.

19. The tribunal observed that the petitioner had specifically admitted to having married Sonia in a temple even though he was a married man already and had made promises to look after her in the future. The appellate

authority had also referred to such a statement given in writing before the CAW Cell. Besides, a copy of the complaint letter of Sonia pertaining to these allegations had also been given to him. The tribunal noted that in his representation he had stated that his confessional statement was forged but had not disputed the signature on the statement or the handwriting; and the same bore a close similarity to his own signature.

20. The tribunal further observed that the statements of PW-10 and PW-4 clearly described the role of the petitioner in extracting ₹50,000/- from Ct.Rajbir Singh to bring about a compromise between Ct.Rajbir Singh and Sonia. The petitioner had taken a plea that Ct.Rajbir Singh himself was involved with the lady and wanted to extricate himself by resorting to a compromise, but the deposition of PW-10 clearly showed that she agreed for the compromise only after the petitioner came into the picture. Further, the depositions of PW-3 and PW-7 clearly substantiated the fact that the petitioner had accompanied the lady, who had given a false name 'Sapna' to register a complaint against one Micky Yadav.

21. As regards the second ground, i.e. that there was a denial of reasonable opportunity, the tribunal observed that the petitioner had asked for a number of documents out of which only two documents received from the Vigilance Branch were not supplied to him. The tribunal noted that the said documents were not utilised against the petitioner during the departmental enquiry proceedings and therefore there was no justification to supply him with copies of the same. Further, the tribunal held that the petitioner had failed to satisfactorily prove what prejudice had been caused to him by the non-supply of these documents.

22. In view of the aforementioned observations, the tribunal dismissed the original application vide order dated May 23, 2011.

23. The petitioner then filed RA No. 214/2011 against the order dated May 23, 2011 but the same was dismissed by the Tribunal vide order dated July 15, 2011.

24. Aggrieved, the petitioner filed the instant writ petition.

25. Arguments were advanced before us on the merits of the evidence recorded and the line of challenge before the Tribunal was not adopted.

26. We need not burden ourselves to note the contentions urged with respect to the evidence led at the domestic inquiry for the reason what the learned counsel for the petitioner was requiring this Court to do was to re-appreciate the evidence as if we were in appeal.

27. It is settled law that pertaining to a domestic inquiry a writ court would not re-appreciate the evidence nor would it weigh as to on which side the weight of the evidence leans. Further, evidence of high-probative value even if hearsay of the kind referred to by the Supreme Court in the decision reported as (1977) 2 SCC 491 State of Haryana & Anr. vs. Rattan Singh would be admissible at a domestic inquiry and can be relied upon.

28. From a perusal of the Summary of Allegations against the petitioner we find that the same can be put into three compartments. Firstly petitioner notwithstanding being a married person started living with Sonia and on a promise that he would marry her developed physical intimacy with her. Secondly he used Sonia to lodge a false complaint alleging rape against Ct.Rajbir Singh and extorting ₹50,000/- from Ct.Rajbir Singh to make Sonia withdraw the complaint. Thirdly using Sonia to lodge a false complaint of rape against Micky Yadav and accompanying Sonia as her brother when a financial deal was struck to extract money from Micky Yadav and with respect to the same misbehaving with Inspector Madanjit Singh and Inspector Laxmi.

29. With respect to the first aspect of the misconduct the testimony of SI Meena Yadav PW-2 would bring home the guilt. With respect to Ct.Rajbir Singh we find testimony of SI B.Lakra, Ct.Subhash, Inspector Swadesh Prakash and Ct.Rajbir Singh sufficient evidence to indict the petitioner. Pertaining to Micky Yadav the testimony of Inspector Laxmi sufficient to bring home the guilt.

30. We note that on the one hand learned counsel for the petitioner made us read the entire evidence and found fault and discrepancies in depositions here and there as if we were to sit in appeal and at the same time contended that it was a case of no evidence.

31. We have taken the trouble to summarize the testimony of the witnesses of the prosecution, a job which ought to have been performed by the Tribunal, because the second limb of the argument was that it is a case of no evidence.

32. The writ petition is accordingly dismissed but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(V. KAMESWAR RAO)
JUDGE

JULY 17, 2013

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