

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

% *Reserved on :15.09.2014*
Pronounced on :25.09.2014

+ W.P.(CRL) 1027/2014

KARAN PAL SINGH Petitioner

Through : Petitioner in person.

versus

C B I & ORS

..... Respondents

Through: Mr.Manoj Bhandari for Mr.Sanjeev
Bhandari, Standing Counsel for CBI.
Ms.Charu Dalal, Advocate for State.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J.

Crl.M.A.No.7962/2014

1. This is an application moved by the Petitioner seeking permission to advance arguments in Hindi.
2. Request allowed.
3. Applications stands disposed of.

W.P.(Crl.) No.1027/2014

1. The Petitioner, Karan Pal Singh, has approached this Court, invoking jurisdiction of this Court under Articles 226/227 of Constitution of India read with Section 482 CrPC, for issuance of direction to CBI and/or any other suitable investigating agency to register an FIR under appropriate provisions of law against all the conspirators (Respondent Nos.3 to 11) about the collusion/conspiracy for falsely implicating the Petitioner in false,

baseless, fabricated and concocted case FIR No.360/2011 under Section 376/420 IPC, PS Burari, Delhi in which he remained in custody for a long time.

2. In addition to detailed written submissions, Petitioner has also made oral submissions.

3. In brief, the case of the Petitioner is that he was Printer, Publisher, Owner and Chief Editor of 'Jan Abhishek' (Hindi Weekly) and was also an RTI Activist. Mr.Sanjay Tomar (Respondent No.9 herein) was the Chief Reporter of 'Jan Abhishek' (Hindi Weekly). When the Petitioner was enrolled as an Advocate and started practicing, the entire work and responsibilities of the newspaper were given to Mr.Sanjay Tomar. Mr.Sanjay Tomar exposed corruption in Virendra Public School, Timar Pur, Delhi under the category of 'EWS' quota, in the newspaper 'Jan Abhishek' which were based on investigation and the material in support of the news items published.

4. The Petitioner and Sanjay Tomar (R-9) were arrested in case FIR No.17/2011 under Sections 384/385/467/469/500/501/502/503/506/34 IPC, PS Timar Pur in collusion with Management of Virendra Public School, Police Officials and officials of Department of Education, Govt. of NCT of Delhi. The Petitioner and his associate were bailed out in that case.

5. The Petitioner filed a criminal complaint against police officials (R-3 to R-5), Education Officer (R-6) and School Management (R-7 and R-8) for their false implication in case FIR No.17/2011, PS Timar Pur. The Petitioner also did not succumb to the pressure put on by the aggrieved Respondents to withdraw the said complaint case. The Petitioner had written various letters to President of India and other higher authorities

apprehending false implication at the hands of the police. Even the Petitioner requested learned MM to provide security which was declined on 02.09.2011. The Petitioner was also offered money to arrive at a settlement which he declined.

6. It is further the case of the Petitioner that Geeta Gupta (R-11) was blackmailing him on the basis of a CD and she had taken Rs.7 lacs from the Petitioner under the threat that she would put the same on the Internet. She also got bank accounts opened by the Petitioner in fake name of Sandeep Sharma. When the Petitioner realised the impact of the acts done by him under the threat from Geeta Gupta, he refused to do anything further and destroyed all ATM Cards and cheque books of the accounts which were opened by him in the fake name of Sandeep Sharma under pressure of Geeta Gupta (R-11). On 04.09.2011, Sanjay Tomar (R-9) and his friend Jitender Gulati (R-10) also tried to blackmail the Petitioner pressing him to withdraw the criminal complaint.

7. On 05.09.2011, Geeta Gupta (R-11) again tried to blackmail the Petitioner and on 09.09.2011 she filed a false complaint against the present Petitioner levelling allegations of rape and cheating. That complaint was inquired into by Inspector Dalbir Singh, Addl.SHO, PS K.N.Katju Marg, who submitted his report recording that the physical relations between the two were with consent and other offences disclosed were non-cognizable. Again a case FIR No.360/2011 under Sections 376/420 IPC was got registered by Geeta Gupta (R-11) against the Petitioner at PS Burari on 30.10.2011. The Petitioner was acquitted in the said case by learned Addl. Session Judge on 27.04.2013. The Petitioner has alleged that he was falsely involved to pressurize him to withdraw the criminal complaint case filed by

him. In the petition, he has reproduced the transcript of alleged conversation between him and Geeta Gupta.

8. The Petitioner has alleged that he had been falsely implicated by Geeta Gupta under pressure from Respondents No.9 and 10 and all the allegations against the Petitioner were false, fabricated, baseless, manipulated and self created by Geeta Gupta (R-11) and other Respondents (R-3 to R-10) and all these facts are proved by recording of the phone calls of the Petitioner and Geeta Gupta. The Petitioner has alleged that he has no hope of justice from Delhi Police or from Metropolitan Magistrate because if he will file a criminal complaint under Section 156(3) Cr.P.C., the learned MM will order Delhi Police to register an FIR and the result would be same, if the FIR is registered and enquired by an official of Delhi Police as he has no hope of justice from Delhi Police since Respondent No.3 is posted as Senior Inspector, Respondent No.4 is posted as Sub-Inspector and Respondent No.5 is posted as Asstt. Sub-Inspector in Delhi police, if the Petitioner file any complaint in this regard in Delhi Police, then officer of Sub-Inspector rank will inquire into the matter and there is no possibility that he can take any strict decision against his senior officers.

9. It is further claimed by the Petitioner that he has made complaint to Commissioner of Police alongwith copies of all related documents and annexed CDs of recording of phone calls and had also given reminders but no action has been taken by the concerned authorities till date. He has further stated that his acquittal in case FIR No.360/2011 under Sections 376/420 IPC, PS Burari vide order dated 27.04.2013 has not been challenged by the State or by the Complainant though more than a year has passed. The Petitioner has prayed for issuance of directions to CBI and/or

any other suitable investigating agency to register an FIR under appropriate provisions of law against all the conspirators (R-3 to R-11) about the collusion/conspiracy for falsely implicating the Petitioner in false, baseless, fabricated and concocted case FIR No.360/2011 under Sections 376/420 IPC, PS Burari in which he remained in custody for a period of 14 months and 9 days. The case was registered just to put pressure on him to withdraw the complaint case filed by him.

10. I have considered the submissions made by the petitioner in person, who himself is an Advocate and also perused the record.

11. Grievance of the Petitioner is that since the matter is against the Delhi police officials and he is not likely to get fair investigation at their hands, the matter may be got investigated by CBI, by directing the agency to register an FIR in the matter.

12. On behalf of State, it has been submitted that the Petitioner has already filed criminal complaint against the police officials before the learned Magistrate.

13. Petitioner submits that the criminal complaint filed by him is not in respect of offences complained of in this writ petition, but in respect of other offences.

14. On behalf of State, reliance has been placed on decision of the Constitution Bench of Supreme Court in ***State of West Bengal and Ors. Vs. Committee for Protection of Democratic Rights, West Bengal and Ors. (2010) 3 SCC 571***, wherein the scope of the power of High Court under Article 226 of the Constitution of India or Supreme Court under Article 32 of the Constitution of India to direct CBI to investigate a cognizable offence in a State without consent of the State Government was discussed. It was

held that this extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility to and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights, on being satisfied that the material discloses a prima facie case calling for investigation by CBI.

15. The grounds on which the Petitioner seeks investigation into the accusations made by him against the Respondents, do not call for any investigation by CBI as it does not satisfy any of the criteria laid above.

16. Even otherwise, the attention of learned counsel has been drawn to the decision of Apex Court in ***Sakiri Vasu vs. State of U.P. and Ors. (2008) 2 SCC 409*** wherein the Apex Court has dealt with the remedies available to a person feeling aggrieved by non-registration of FIR by the local police. In paragraphs 26 & 27 of the Report, the Supreme Court has observed as under:-

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot

investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.”

17. In view of the legal position referred to above and remedies available to the Petitioner by filing criminal complaint, no direction is required to be issued by this Court in writ jurisdiction. Writ petition is hereby dismissed.

Crl.M.A.No.7963/2014

Since the writ petition has been dismissed, the present application has become infructuous and the same is accordingly dismissed.

PRATIBHA RANI, J

AUGUST 25, 2014

‘da/st’