

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 19th January, 2016

W.P.(CRL) 171/2016 & CRL.M.A. 929-930/2016

SANJU @ TINDA

..... Petitioner

Through: Mr R.P.S. Bhatti, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR

..... Respondents

Through Mr Sanjay Lao, Addl. Standing
Counsel (Crl.).

SI Mukesh Meena, PS- Sagarpur.

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of order dated 18.11.2015 rendered by the Lieutenant Governor, Delhi in Case No.196/2015 as well as the order dated 21.09.2015 issued by the Additional Deputy Commissioner Delhi, South West District, Delhi in case titled as *The State v. Sanju @ Tinda*.

2. A perusal of the original order dated 21.09.2015 reveals that Sanju @ Tinda is allegedly engaged in the commission of illegal acts and is found to be involved, as per the record of Police Station- Sagarpur, in the following FIRs registered against him:-

S.No.	FIR NO./DATE	UNDER SECTION	POLICE STATION
1.	223/24.03.2006	61/1/14 Excise Act	Dabri
2.	618/18.06.2006	61/1/14 Excise Act	Dabri
3.	979/25.10.2006	61/1/14 Excise Act	Dabri
4.	162/26.02.2007	61/1/14 Excise Act	Dabri
5.	361/28.04.2007	61/1/14 Excise Act	Dabri
6.	450/29.05.2007	61/1/14 Excise Act	Dabri
7.	605/14.07.2007	61/1/14 Excise Act	Dabri
8.	835/06.10.2007	61/1/14 Excise Act	Dabri
9.	131/12.03.2008	61/1/14 Excise Act	Dabri
10.	373/30.06.2008	61/1/14 Excise Act	Dabri
11.	566/10.10.2008	61/1/14 Excise Act	Dabri
12.	02/01.01.2009	61/1/14 Excise Act	Dabri

3. A proposal for his externment resulted in legal proceedings against Sanju @ Tinda initiated by an order dated 29.04.2010. In compliance of Section 50 of the Delhi Police Act, 1978 (in short 'the Act'), a notice containing a summary of allegations was furnished to Sanju @ Tinda.

4. Despite repeated opportunities, Sanju @ Tinda failed to submit a reply to the above mentioned show cause notice and further steadfastly refused to

execute a surety for his appearance before the court. Furthermore, despite being provided with sufficient opportunities, Sanju @ Tinda did not contact the Legal Aid Cell, Dwarka for free of cost legal aid and brief a counsel to be provided by the said Legal Aid Cell.

5. It is noticed that statement of the SHO, Police Station- Sagarpur, was recorded wherein it was clearly stated that at the time of the proposal for externment Sanju @ Tinda was involved in at least 12 cases under the Excise Act. Despite an opportunity in this behalf, Sanju @ Tinda refused to cross-examine the concerned SHO. It is also observed that Sanju @ Tinda did not produce a single witness in his defence.

6. Accordingly, by way of order dated 21.09.2015, in exercise of powers vested under Section 47/50 of the Act, Sanju @ Tinda was directed to remove himself beyond the limits of the NCT of Delhi for a period of one year with effect from 28.09.2015.

7. As is evident from the impugned order dated 18.11.2015 passed by the court of Lieutenant Governor, Delhi, despite externment proceedings initiated against him, Sanju @ Tinda did not cease and desist from indulging in criminal cases as is evident from the following cases that have been registered against him during this period:-

S.No.	FIR No.	Section	Police	Final order of the court
1.	194/2011	33 Delhi Excise Act	Sagarpur	Acquitted on 26.06.2012
2.	09/2012	33 Delhi Excise Act	Sagarpur	Acquitted on 07.08.2012
3.	121/2013	33 Delhi Excise Act	Sagarpur	PT
4.	213/2014	33 Delhi Excise Act	Sagarpur	PT

8. Learned counsel appearing on behalf of Sanju @ Tinda would urge that although all the above FIRs have been registered against him he has not been convicted in any one of these cases and in fact eight cases have been decided in his favour. On a query from the court qua the details of the cases in which he has purportedly been acquitted and copies of the judgments and orders in this behalf, it is admitted that the same are not on record.

9. Counsel for Sanju @ Tinda would then urge that grave hardship is being caused to Sanju @ Tinda's family in view of the circumstance that he is the only earning member in a family comprising an ailing wife and three minor children. It would be relevant to note that the assertion to the effect that Sanju @ Tinda has an ailing wife is not borne out from the record since no medical reports in this behalf have been annexed either before the authorities below or before this court.

10. Further, it has been sought to urge on behalf of Sanju @ Tinda that the witnesses on the basis of whose statement the orders impugned herein was passed, have not been produced for cross-examination. In this behalf it would be suffice to note that the SHO, Police Station- Sagarpur was examined in court and did allude to the fact that witnesses were unwilling to depose against Sanju @ Tinda due to fear for their person and property at the latter's hands. However, despite an opportunity being granted Sanju @ Tinda refused to cross-examine the said SHO, Police Station- Sagarpur. Not only this, as is evident from the record, Sanju @ Tinda despite opportunities in this behalf failed to produce a single witness in his defence.

11. Lastly, it has been urged by counsel appearing on behalf of Sanju @ Tinda that the impugned orders are not based on any evidence. This submission on behalf of Sanju @ Tinda has been made to be rejected, inasmuch as, it is an admitted position that as many as 21 FIRs have been registered against him which is a matter of record.

12. Apart from this, having perused the orders impugned herein, it is observed that every opportunity was granted to Sanju @ Tinda to defend himself and every opportunity was further provided to him to be represented by a counsel and lead his defence in relation to the aforementioned show

cause notice, but he steadfastly refused to do so. It is also relevant to point out that despite being directed to do so Sanju @ Tinda failed to execute surety for his appearance and did not desist from his activities even during the course of the externment proceedings.

13. In view of the foregoing discussion, I do not see any infirmity in the orders impugned before this court so as to warrant any interference under Article 226 of the Constitution of India. The writ petition being devoid of merit is dismissed.

SIDDHARTH MRIDUL, J

JANUARY 19, 2016

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