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

+ W.P.(CRL) 802/2015

SURESH CHAND SHARMA

..... Petitioner

Through: Mr.N.K.Aggarwal, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr.Manish Mohan, CGSC for R-1/
UOI with Mr.Shivam Chanana,
Advocate.
Mr. R.S.Kundu, A.S.C. for the
State/R-2 with Mr.Vishesh Wadhwa
and SI Harish Kumar, PS Palam
Village.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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19.01.2016

1. The petitioner has invoked the extra ordinary jurisdiction of this Court with the following prayers:-

(i) to issue directions to the respondents to conduct vigilance and departmental inquiry to investigate the role of erring police official namely Inspector Rajesh Dahiya of District Investigation Unit, South West Delhi and his associate/accomplice in respect of the incident of illegal arrest, detention and confinement of petitioner and his nephew on the night intervening 12/13 April, 2013.

(ii) to issue directions to the respondents to file compliance report to enable this Court to monitor the said inquiry.

(iii) to direct the State to award appropriate compensation to the petitioner.

2. The case of the petitioner is that on the night intervening 12/13 April, 2013 the petitioner and his nephew were abducted from their house situated at Village Tasing Behror, District Alwar, Rajasthan by Delhi Police. They were brought to Delhi and initially illegally detained in PS Palam Village and later on shifted to DIU South West, Sector-19, Dwarka, New Delhi. For the alleged act of abduction, the family member of the petitioner got an FIR No.217/2013 registered at PS Behror, Rajasthan.

3. The petitioner filed a complaint with the Commissioner of Police, Delhi for conducting a vigilance inquiry into the unlawful act of Inspector Rajesh Dahiya and his associates. On not getting any response from the Commissioner of Police, Delhi about the action taken on the complaint filed by him, he filed this writ petition.

4. Learned counsel for the petitioner has vehemently argued that this is a case where the Delhi Police has abused its power by abducting the petitioner and his nephew from his village without even informing the local police. It is further submitted that private vehicle was used for abduction which was not permissible and despite the complaint being made, their conduct has not been inquired into by the Vigilance Department of Delhi Police.

5. On behalf of State, the status report dated 07.07.2015 has been submitted to the effect that the petitioner and his co-accused were wanted in case FIR No.58/2013 under Sections 420/448/506/34 IPC, PS Palam Village which has been registered on 22.02.2013 after approval from senior officers. NBWs were issued against Suresh Chand Sharma i.e. the petitioner herein

and Rahul Kumar Sharma by the concerned MM, Dwarka Court, Delhi. The investigation was transferred from PS Palam Village to DIU, South West District and was marked to SI Vikram Singh Rathi who on 06.04.2013 obtained the specimen handwriting of accused Beena. Thereafter on transfer of SI Vikram Singh Rathi, the investigation was entrusted to Inspector Rajesh Dahiya on 09.04.2013. It is further reported that accused Suresh Chand Sharma and Rahul Kumar Sharma were arrested in this case and produced before the Duty Magistrate on 13.04.2013 and were remanded to J/C till 15.04.2013. Thereafter, they were remanded to P/C upto 17.04.2013. On expiry of period of P/C, they were again remanded to J/C by the concerned Court. Bail was granted to them by the Court of Session on 26.04.2013. Chargesheet against accused Beena was filed on 07.05.2013 and supplementary chargesheet against Naresh Chand Sharma, Suresh Chand Sharma, Rahul Sharma and Yogesh Sharma @ Sant Ram was filed on 29.05.2014.

6. It is further reported that in case FIR No.217/2013 under Section 365 IPC registered at PS Behror, Rajasthan, cancellation report (Annexure-P4) has been submitted. Both these persons have been arrested pursuant to the NBWs issued against by them by the Court and they have been arrested as per procedure and on the same day, they have been produced in the Court of Duty Magistrate.

7. In respect of the prayer of the petitioner for vigilance inquiry to be conducted, it is mentioned in the status report that vigilance inquiry has been conducted in the matter.

8. From the averments made in the writ petition, it is apparent that the grievance of the petitioner is regarding the manner of his arrest from his

Village and his alleged illegal confinement. In view of the status report submitted by the police, it is clear that arrest was pursuant to the issuance of NBWs issued by the Court of competent jurisdiction and within twenty-four hours of arrest, the petitioner and his nephew were produced before the Court of Duty Magistrate and remanded to J/C.

9. The grievance of the petitioner regarding conducting a vigilance inquiry has already been looked into by the competent authority. Further in the case FIR No.217/2013, under Section 365 IPC, PS Behror, Rajasthan, which was registered on the basis of complaint filed by family members of the petitioner, cancellation report has been submitted.

10. Thus, the prayer made in the writ petition to the extent that vigilance inquiry should be conducted has already been acceded to.

11. It is not for this Court to monitor the vigilance inquiry as prayed in the writ petition. If at any stage, the petitioner is able to prove his illegal confinement, it is for him to seek appropriate compensation after establishing the said fact.

12. The writ petition is hereby dismissed.

PRATIBHA RANI, J.

JANUARY 19, 2016

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