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

\+ W.P.(CRL) 2162/2016

BHASKER SEN

..... Petitioner

Through: Mr. Ashok K. Singh, Advocate.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sanjay Lao, ASC and Mr.Siddharth Sidhu, Advocate for the State.
Mr. Viraj Datar & Mr. Vikram Pradeep, Advocates for respondent No.2.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

O R D E R

% **19.10.2016**

The petitioner has preferred the present writ petition, firstly, to seek direction to the State to conduct free and fair investigation against respondents No.2 & 3, i.e. Sh. T.S. Ashok (respondent No.2) and Sh. Pravin Kumar, Inspector of Police, DIU South-West Division. The petitioner also seeks an order that respondent No.3. Sh. Pravin Kumar, Inspector of Police be restrained from sending frivolous mails and making threatening calls to the petitioner which were allegedly used as a vexatious instrument of torture and deliberate extortion.

The petitioner claims that respondent No.2 Sh. T.S. Ashok was an employee of the petitioner's company BCC Shipping & Ship Building Limited. According to him, respondent No.2 misused his acquaintance and relationship with respondent No.3 for the purpose of extracting monies from him. Along with the petition, he has placed on record an e-mail communication sent by Pravin Kumar/ respondent No.3 on 20.11.2015 requiring the petitioner to present himself at District Investigation Unit, DCP Office, South-West Delhi, Section 19, Dwarka, New Delhi on 27.11.2015 at 11:00 a.m. in connection with some complaint against him. This communication does not mention any particulars of the case/ complaint pending against the petitioner. The submission of the petitioner is that the petitioner was called by respondent No.3 at the instance of respondent No.2 and monies were extracted from him. The petitioner also claims that respondent No.2 mislead the petitioner into believing that there are outstanding dues payable by the petitioner to third parties. In this regard, he placed on record a few e-mail communications exchanged by him with respondent No.2.

When the matter came up before the Court on 27.07.2016, the Court took serious note of the fact that respondent No.3 had sent the e-mail communication dated 20.11.2015 requiring he petitioner to appear before him without making any disclosure of the case/ FIR registered against him; the identity of the complainant, and; the nature of the complaint. The Court also took note of the petitioner's submission that respondent No.2 had, in his e-mails, indicated, having paid bribe to respondent No.3.

Mr. Lao had informed the Court that respondent No.3 was no longer investigating the FIR registered at the instance of respondent No.2, i.e. FIR No.783/2015 at PS – Dwarka (South) under Section 420/ 467/ 468/ 471 IPC. A copy of the FIR was tendered to learned counsel for the petitioner in Court. The Court had directed that the investigation in the FIR shall be done by an officer who is not below the rank or seniority of respondent No.3. It was also directed that the complaint made by the petitioner on 21.07.2016 shall also be actioned before the next date and the counter-affidavit/ status report shall disclose steps taken in that regard.

Respondent No.2 has filed a detailed counter-affidavit. Inter alia, respondent No.2 has disclosed that the petitioner acting as the Chairman of his company BCC Shipping & Ship Building Limited has acknowledged the liability owed to the respondent No.2 to the tune of Rs.3 Crores. The status report filed by the State discloses that on the complaint of respondent No.2, the preliminary inquiry was conducted, only whereafter, the FIR came to be registered against the petitioner being FIR 783/2015.

So far as the conduct of respondent No.3 in issuing private communication to the petitioner and requiring him to appear before him on 27.11.2015, without disclosing the particulars of the case and the nature of allegations against him therein is concerned, disciplinary action has been initiated against respondent No.3. A show-cause notice has been issued to him in the matter.

I find that the e-mail communications placed on record by the petitioner that he undertook with respondent No.2 do not disclose the complete background in which they were exchanged. They appear to conceal more than they disclose. In any event, they do not appear to be relevant inasmuch as the petitioner was called upon by respondent No.3

though improperly to join the investigation in respect of the FIR already registered against the petitioner, i.e. FIR 783/2015.

The petitioner appears to have grievances against respondent No.2 that he has managed to extract 38 odd Lakhs from him by using his connection with respondent No.3. If the petitioner has any such grievance, it is open to the petitioner to take appropriate steps in that regard in accordance with law. Since the investigation is no longer being conducted by respondent No.3 in the case filed against the petitioner vide FIR No.783/2015, no further directions are necessary in the present matter. The petitioner shall, however, be informed of the final outcome of the disciplinary proceedings initiated against the respondent No.3.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

OCTOBER 19, 2016
B.S. Rohella