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

Judgment delivered on: 09th February, 2016

+ **CRL.M.C. No.5377/2013**

SMT NIRMALA SHARMA & ORS Petitioners
Represented by: Mr.Kuldeep Gola, Adv

versus

STATE & ORS Respondents
Represented by: Mr.Ashish Dutta, APP for
the State with SI Bhawani
Shanker, PS Paschim Vihar.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners seek direction thereby quashing of FIR No.1077/1998 registered at Police Station Paschim Vihar, Delhi for the offences punishable under Sections 353/186/34 of the IPC and the consequential proceedings emanating therefrom against them.

2. As stated in the status report filed by the State on 19.04.2014 before this Court, aforesaid case was registered on 28.12.1998 on the statement of respondent No.2 Anil Kumar, Assistant Engineer, DDA on the allegations that, he along with other staff went to remove the encroachment from A/5, DDA, Subzi Mandi, Paschim Vihar, Delhi and while they were removing the encroachment, 4-5 persons along with one

lady who was leading them came there. The said lady instigated them and upon this, said persons started beating him and obstructed in the discharge of the official duty. The name of the said lady revealed as Mrs.Nirmala Sharma, petitioner No.1 and name of the person who had grappled was revealed as Jamna Prasad.

3. It is further stated that after registration of the FIR, investigation was carried out by SI Ghan Shyam Meena and upon completion of investigation, charge sheet was filed against accused persons in the Court through Road Certificate bearing No.280/21/2000. As per the record maintained at the police station concerned, the name of petitioner No.1 is specifically mentioned in the FIR and after completion of the investigation, charge sheet was filed against all accused persons.

4. After filing of instant petition, the police station has verified and submitted that the MHC(R) sent the charge sheet through Head Constable Umed Singh, Naib Court vide aforementioned Road Certificate and entry in this regard has been entered in the FIR register.

5. As stated in the instant petition that petitioners were never served with any notice to join the investigation and never arrested in the aforementioned case. However, on 19.01.2006 when petitioner No.1 had applied for issuance of Passport to the Regional Passport Office, it was refused on the ground that there is trial pending against her in afore noted FIR. Thereafter, the had taken all the steps with police station, learned Court concerned and the senior officers of the police to know in which Court, the case is pending and under what provisions of law and stage of the case, however, petitioners could not get any information from any of

the authorities.

6. Learned counsel for petitioners submits that petitioners are ready to face the trial of the afore noted case, if pending before any Court, however, petitioners have already tried their level best, but no case is pending in any Court of Delhi. In view of above facts, petitioners sought the quashing of FIR against them.

7. For ascertaining the status of case, petitioners moved an application before the learned Metropolitan Magistrate (West) to know the status of the present case FIR. As recorded, vide order dated 01.06.2013 by learned Metropolitan Magistrate-07, West District, Delhi, that as per the detailed report from the Additional Commissioner of Police, West District, Delhi the detailed enquiry had been conducted through ACP, Punjabi Bagh, Delhi and the DCP (Security) has already been requested to take action against the Investigating Officer and the Naib Court for their lapses.

8. Be that as it may, almost 17 years have been passed after registration of the case. As of now, barring the FIR at the police station, none of the documents of afore noted case either charge sheet or statements of witnesses are either available with the police or pending in any Court. Moreover, the petitioners are trying their level best, since January, 2006 to know the status of the case but no result.

9. In view of above facts of the case, FIR No.1077/1998 registered at Police Station Paschim Vihar, Delhi for the offences punishable under Sections 353/186/34 of the IPC and all proceedings emanating therefrom, are hereby quashed. However, liberty is granted to the State if they are able to locate or reconstruct the charge sheet and related documents may

get revived the trial after taking requisite steps.

10. In above terms, instant petition is allowed with no order as costs.

**SURESH KAIT
(JUDGE)**

FEBRUARY 09, 2016

M/jg