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

+ **W.P.(CRL) 2360/2016**

T. U.

..... Petitioner

Through: Ms. Warisha Farasat and Mr. Ali
Chaudhary, Advocates

versus

STATE OF GNCT OF DELHI

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel,
(GNCTD) and Mr. Tushar Sannu
Dahiya, Mr. Jamal Akhtar and
Mr. Shekhar, Advocates along with
Inspector Suresh Chand Verma and
Arun Dev Nehra, PS-S.J. Enclave, for
the State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

10.08.2016

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1. To maintain privacy of the petitioner, her full name has not been displayed hereinabove.

Crl. M.A. No. 12356/2016

2. Exemption allowed, subject to all just exceptions.

3. The application stands disposed of.

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4. This petition has been preferred by the petitioner to, *inter alia*, seek a

writ of mandamus restraining all media houses from publishing anything about the petitioner, even on no name basis, while the matter is subjudice. She also seeks a mandamus to the police for recording her statement as early as possible so that the whole narration of true incident comes out, thereby enabling the petitioner to lead a normal life.

5. The submission of learned counsel for the petitioner is that the petitioner was residing out of her own free will and accord with the accused No.1 in case FIR No.489/2016 dated 19.07.2016 under Sections 341/ 342/ 370/ 419/ 370-A(2)/ 120-B/ 34 IPC and Sections 7/ 14 of the Foreigners Act registered at Police Station – Safdarjung Enclave, New Delhi.

6. The submission of the petitioner is that during the raid conducted by the income-tax authorities on the premises of accused No.1 in the aforesaid FIR, she was ill-treated, firstly, by the income-tax authorities, and thereafter, by the police. Her grievance is that while conducting investigation into the said case, the police went about inquiring about the petitioner from her friends in India. The same has brought a bad name to the petitioner as if she is involved in a sex racket.

7. Learned counsel for the petitioner submits that the police also retained her passport without even acknowledging the same. Eventually, she had to move the learned MM for release of her passport. The passport was released on the directions of the MM concerned in his order dated 30.07.2016. Learned counsel submits that she is being portrayed by the different media houses as being part of the sex racket alleged against the accused No.1 in the aforesaid FIR. Learned counsel for the petitioner submits that her Indian

visa is expiring on 24.08.2016 and, therefore, she would be returning to her native country. Learned counsel submits that in this background, the police should be directed to record her statement as early as possible.

8. Mr. Mehra, learned Standing Counsel has opposed the petition. He submits that the petitioner is not an accused named in the FIR. The police has only conducted part of the investigation and the further investigation is still underway. If the association of the petitioner with accused No.1 has resulted in any assumed damage to her reputation, the police is not responsible for the same. He further submits that the name of the petitioner has not been disclosed by the police, and even the press reports placed on record by the petitioner do not disclose her identity. Thus, the privacy of the petitioner and her reputation has been safeguarded by the police and the media.

9. So far as the aspect of recording the petitioner's statement is concerned, it is pointed out that the petitioner had already moved an application for that purpose, while seeking release of her passport but the statement was not recorded by the Magistrate.

10. At this stage, learned counsel for the petitioner points out that the statement was not recorded by the learned Magistrate since the police was not inclined to do the same.

11. Having heard learned counsel for the petitioner and perused the record, I am not inclined to pass any orders restraining the media houses from publishing anything about the petitioner, even on no name basis in relation to the case under investigation by the police against the accused.

Pertinently, the petitioner is not even named as an accused. None of the news publications and even the press releases issued by the police name the petitioner as a person involved in the said case or in any other case. The freedom of press which stems out from Article 19(1)(a) of the Constitution of India has to be balanced with the right of privacy claimed by the petitioner. That right of privacy, in my view, has not been breached by the publications in the press releases placed on record. There is no reason to apprehend that the same would be breached in future.

12. The allegation that the petitioner was ill-treated, firstly, by the income-tax authorities, and thereafter, by the police during the course of their investigation cannot be adjudicated in these writ proceedings as they would raise disputed questions of fact. If the petitioner has any grievance in that regard, it is open to her to take independent action.

13. So far as the plea that the petitioner's statement be recorded as early as possible since she is due to leave the country is concerned, I may observe that since the Trial Court is seized of the matter, it is not for this Court to issue any such direction. However, in case the petitioner wishes, she may again move the concerned Magistrate and if any such application is moved, the Court shall consider the same on its own merits keeping in view the stage of the proceedings.

14. The petition stands disposed of in the aforesaid terms. Dasti.

VIPIN SANGHI, J

AUGUST 10, 2016

B.S. Rohella