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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 570/2016 & CrI.M.A.13351/2016
SHISHPAL SINGH TOMAR Petitioner
Through : Mr. R. P. Luthra, Adv. with petitioner
in person.
versus

STATE Respondent
Through : Mr. Mukesh Kumar, APP with ACP
L. C. Yadav, Vigilance Branch.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

% **ORDER**
01.09.2016

By this revision petition under Section 397 read with Section 401 of Code of Criminal Procedure, 1973, petitioner has challenged the order dated 18th May, 2016 passed by Special Judge (Prevention of Corruption Act), Central District, Tis Hazari Courts, Delhi whereby closure report filed by respondent in FIR No.195/2009 under Section 7 and 13 (1) (d) of Prevention of Corruption Act read with Section 384/120-B IPC, against the Traffic Inspector S. R. Meena, Zonal Officers Dalbir Singh, Ramesh Dhaiya, and Ranvir, Constables Brahm Dev, and Manoj and newspaper reporter Mr. Rajbir Bansal, has been accepted.

This is the second round of litigation. Earlier, respondent had filed

closure report in the same FIR, which was accepted by the then Special Judge, Tis Hazari Courts, Delhi vide order dated 31st July, 2013. Petitioner preferred Crl.Rev.P.No.612/2013 against the said order, which was disposed of vide order dated 12th November, 2014 passed by the learned Single Judge and the matter was remanded back to the Special Judge to examine afresh the affidavit dated 18th July, 2013 of Mr. Rohit Tanwar and other evidence, collected by the prosecution and to pass the order afresh.

Learned Special Judge has examined the material collected during the investigation afresh and by the impugned order has held that no material exists on the record warranting rejection of the closure report and directing the prosecution to obtain sanction against the proposed accused persons, which will be an exercise in futility. Learned Special Judge has accepted the closure report.

Briefly stated, facts of the case are that on the complaint of petitioner FIR No.195/2009 was registered. Petitioner alleged in the FIR that he was running RTVs from Nand Nagri to Ajmerti Gate. Traffic police staff namely Kishan and constable Braham Dev used to collect money from him on behalf of Traffic Inspector. In the month of August, 2009, Traffic Inspector S. R. Meena asked him to pay ₹1,000/- per RTV for himself, ₹1,000/- per

RTV for Zonal Officer and ₹100/- to ₹200/- to constable and head constable. Since petitioner was not willing to pay the bribe to them, he contacted one Mr. Rajbir Bansal, who was running a weekly newspaper, for conducting sting operations. On 14th August, 2009, cameraman Mr. Rohit Panwar was deputed by Mr. Rajbir Bansal to conduct the sting operation accordingly, they visited five traffic signal points namely Khajoori Khas, Wazirabad Pull, Bhajanpur red light, Brij Puri and Usmanpur and videographed the acceptance and demand of bribes by Zonal Officer Dalbir Singh, Zonal Officer Ramesh Dhaiya, constable Brahm Dev etc.. Mr. Rajbir Bansal took the recordings with the assurance that he will prepare CD with the help of computer and hand over a copy of the same to petitioner. Mr. Rajbir Bansal did not publish the sting operation but published the sample news. He also did not return the CD to petitioner as he colluded with the police officials, blackmailed them and extorted money from them for destroying the CD. Petitioner conducted another sting operation in October, 2009 wherein officials of the traffic staff admitted the previous incident of sting operation. CDs were prepared, which included the recording of the conversation with Mr. Rajbir Bansal.

Learned Special Judge has noted in the order that neither petitioner

nor Mr. Rajbir Bansal produced CD of the sting operation dated 14th August, 2009 during the investigation despite requests. They put blames on each other regarding non-availability of CD. As per the petitioner CD was with Mr. Rajbir Bansal and according to Rajbir Bansal, it was with the petitioner. Searches were carried out in the houses of Mr. Rajbir Bansal, Mr. Rohit Panwar and petitioner but CD was not found. During the search two computer hard disks, one pen drive and 11 CDs were seized and were got examined at GEQD, Hyderabad, however, nothing relevant could be retrieved from the aforesaid devices, inasmuch as, no recording dated 14th August, 2009 could be found. Camera was also not found in the searches. As regards CDs containing subsequent conversation of the petitioner with police officials, Mr. Rajbir Bansal and Mr. Rohit Panwar, same were also examined but no conversation regarding demand or acceptance of bribe could be noticed. In his statement under Section 161 Cr.P.C., Mr. Rajbir Singh stated that he published news items on the basis of CD provided by petitioner regarding sting operation dated 14th August, 2009 wherein some traffic police officials were shown accepting money and sweets. On the request of petitioner, CD was returned to petitioner on his assurance that he would provide the copy thereof to him. Petitioner gave a written receipt in

respect thereof. When petitioner was confronted with this receipt, he stated that he may have signed the receipt for some other purpose. He denied that he received back the CD from Mr. Rajbir Bansal. Mr. Rohit Panwar stated that petitioner had offered sweets and money to some home guards and police personnel on the occasion of Janamashtmi but none of them had accepted the offered money.

Trial court has noted that during the investigation, it was revealed that petitioner had been plying five RTVS on unauthorized routes, thus vehicles were impounded and heavy fines were imposed on him by the concerned court and same can be the motive to file complaints against the officials of Traffic Police.

Learned Special Judge has also noted that statement of Mr. Rohit Panwar under Section 164 Cr.P.C. was recorded by learned CMM, Central District, Delhi since petitioner expressed his apprehension that Mr. Rohit Panwar may be influenced by the Investigating Officer and may not make true statement. Mr. Rohit Panwar had given the affidavit dated 18th July, 2013 which has also been considered by the learned Special Judge along with the statement under Section 161 Cr.P.C. which indicated that Mr. Rohit Panwar had taken shifting stands in his statements. In his statement under

Section 164 Cr.P.C., he has stated that he had gone for a sting operation with the petitioner on 14th August 2009, on the asking of Mr. Rajbir Bansal. They visited Khajoori Khas Traffic Point, barricade of Wazirabad Traffic Point, Brijpuri Traffic Point and Bhajan Pura Traffic Point where all the traffic police officials ate the sweets offered by petitioner on account of Janamasthmi but refused to accept the money offered by him. At Usmanpur Traffic Point, no traffic police official was found to be present. He further stated that petitioner had obtained his signatures and thumb impressions on an already prepared affidavit by him when he was under the influence of alcohol.

For the foregoing discussions and in the facts of the present case as detailed above, I do not find any illegality, impropriety or irregularity in the impugned order passed by the learned Special Judge. Except the bald statement of petitioner, nothing could be collected during the investigation to substantiate the allegations of demand and acceptance of bribes. CD of the alleged sting operation dated 14th August, 2009 has not seen light of the day. Petitioner has failed to produce any such CD. Same could not be recovered during the house searches. The material seized was also not relevant to prove demand and acceptance of bribe. The conduct of the

petitioner is also not above the board. He did not approach the Anti Corruption Branch of Delhi or of CBI when demand was made. It is also reflected that his RTVs were impounded since these were plied on unauthorised routes. Neither primary evidence of videography dated 14th August, 2009 nor secondary evidence of videography could be seized during the investigation and in absence thereof it would not have been safe to proceed with the prosecution only on the bald statement of the petitioner.

For the foregoing reasons, petition is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

SEPTEMBER 01, 2016/dk