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

+ **W.P.(CRL) 3026/2016**

SATISH SHARMA

..... Petitioner

Through: Ms. Rebecca John, Sr. Adv. with Mr.
Vishal Gosain, Harsh Bora, Nikhil
Ahuja, Advocates

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms. Nandita Rao, ASC with SI
Pankaj Kumar, PS Pul Prahladpur

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

19.10.2016

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Crl.M.A. No.16222/2016

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(CRL) 3026/2016

Issue notice. Notice is accepted on behalf of the State.

The petitioner has preferred the present writ petition to seek a direction to transfer the investigation of the case FIR No.49/2016 registered at PS Pul Prahladpur under Section 420/468/471/506/34 IPC out of the said police station, and to assign the investigation to crime branch or any other

specialised wing of the Delhi police.

The background in which the present petition has been filed may be taken note of. The son of the petitioner, Amit Sharma, got married to one Pooja Kaushik. Unfortunately, matrimonial disputes arose between the couple. At the instance of Pooja Kaushik, FIR No.125/2014 came to be registered at PS Pul Prahladpur under Section 498A/406/354/34 IPC against the petitioner, his wife, his three sons including the husband of the complainant Amit Sharma. The charge sheet was filed in the aforesaid case under Section 498A/406/376/34 IPC, since the complainant also alleged rape against the petitioner. A supplementary charge sheet was filed by the police in the said case on 20.11.2014.

Learned senior counsel for the petitioner submits that the said supplementary charge sheet and documents filed along with it, disclosed the commission of the offence of forgery in respect of bills and documents of alleged purchase of clothing and jewellery etc., against the complainant Pooja Kaushik and her family members. The supplementary charge sheet disclosed that the said bills had been tampered with and fabricated. Consequently, an application under Section 156(3) was filed by the petitioner on 24.02.2015 seeking registration of a FIR in respect of the alleged forgery and fabrication of documents.

That application was dismissed by the learned Magistrate on 24.02.2015. The petitioner challenged the order passed under Section 156(3) before the Sessions Court in revision, which was allowed. Consequently, FIR No.49/2016 came to be registered at PS Pul Prahladpur under Section 420/468/471/506/34 IPC, wherein Pooja Kaushik, her father Rambir Kaushik and mother Santosh Kumar were arrayed as accused.

Learned senior counsel for the petitioner submits that despite the registration of the said FIR, the investigation into the said offences was not conducted by the I.O. in a satisfactory manner. In this regard, reference has been made to the orders passed by the learned Magistrate monitoring the investigation on 12.04.2016 and again on 27.06.2016. The petitioner also made a complaint to the DCP (SE) with regard to the conduct of the I.O. Ashok Kumar, PS Pul Prahladpur. Learned senior counsel for the petitioner submits that on account of the manner in which the I.O. was conducting the investigation, the learned Magistrate desired the change of the I.O. and, accordingly, the I.O. has since been changed. The present I.O. in the case is SI Pankaj Kumar.

Learned senior counsel for the petitioner submits that the petitioner has also made a complaint against the officers posted at PS Pul Prahladpur with regard to assault on his wife by the said officers. They have been summoned in the said case vide order dated 04.04.2016 by the learned Magistrate. Consequently, the petitioner submits that the approach of the police officers posted at PS Pul Prahladpur against the petitioner is hostile, and the petitioner has reason to believe that he would not receive fair treatment at the hands of the police officers posted at PS Pul Prahladpur.

On the other hand, Ms. Rao submits that a house search of the accused in case FIR No.49/2016 has been carried out by the present I.O. to locate the forged and fabricated documents which have not been recovered. The anticipatory bail application moved by Rambir Kaushik was opposed by the present I.O. However, he has been granted interim bail by this Court. She submits that it was on the investigation of the police that the alleged forgery surfaced – though it is not denied that the said investigation was

conducted by another I.O., and not by either by the present I.O. or the earlier I.O. Ashok Kumar. At the same time, Ms. Rao submits, on instructions, that the police has no objection to the transfer of investigation of the present case, i.e. case FIR No.49/2016 to a police officer at the Crime Branch.

In view of the aforesaid circumstances, I am inclined to grant the relief as sought by the petitioner, since a complainant is entitled to fair investigation into his complaint. It does appear from the orders passed by the learned Magistrate that there has been laxity in the matter of investigation conducted in the FIR in question i.e. FIR No.49/2016 registered at PS Pul Prahladpur. It is ordered accordingly. The further investigation in case FIR 49/2016 registered at PS – Pul Prahladpur stands transferred to the Crime Branch of Delhi Police. The competent officer shall nominate the new Investigating Officer in the case, who shall proceed with further investigation promptly and efficiently.

So far as the conduct of the erstwhile I.Os, particularly I.O. Ashok Kumar is concerned, the concerned DCP shall examine the same and if called for, take appropriate action against the erring police officials.

Petition stands disposed of in the aforesaid terms. Dasti.

VIPIN SANGHI, J

OCTOBER 19, 2016

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