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

+ **BAIL APPLN. 2634/2015**

MANISH KUMAR

..... Petitioner

Represented by: Mr. Gagan Deep Panwar,
Advocate.

versus

GOVT OF NCT DELHI

..... Respondent

Represented by: Mr. Kewal Singh Ahuja, APP
for the State with Dr. Ajit K.
Singla, IPS, DCP North East,
Inspector Vijendra Pal Sharma,
Inspector Legal, North East,
Inspector Kishan Kumar, ATO
PS Nand Nagri and W/SI Ina,
PS Nand Nagri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

29.08.2016

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1. This Court on 18th July, 2016 passed the following order:

“Learned APP for the State on instructions from the investigating officer submits that WSI Seema is the investigating of the FIR No.856/2015 registered under Sections 328/365/342/376/506/34 IPC registered at PS Nand Nagri. She is on medical leave for the last five months. Amazingly no other investigating officer has been appointed. The Police file is stated to have been lost.

DCP North East will be present in Court personally on the next date of hearing with a detained status report.

List on 29th August, 2016.
Interim order to continue.”

2. Pursuant to the direction dated 18th July, 2016 the DCP, North East is present in Court. He states that the then SHO PS Nand Nagri has since been transferred to Rashtrapati Bhawan and as regards misconduct of the then SHO Insp. Tarkeshwar Singh he has already written a letter to the DCP Rashtrapati Bhawan for taking action.

3. Action has also been initiated against WSI Seema for proceeding on leave without handing over the files and the relevant order passed by the DCP North East reads as under:

“ORDER

It is alleged against W/SI Seema No.D-5294 (PIS No.28090669) posted at PS Nand Nagri that on 18.7.2016, the Hon’ble High Court of Delhi, Hon’ble Justice Mukta Gupta, passed an order regarding bail application No.2634/2015, Titled Manish Kumar Vs. Govt. of NCT of Delhi in case FIR No.856/2015, U/s 328/365/376/506/34 IPC, PS-Nand Nagri, Delhi observed as under:-

1. That, Ld. APP for the State on instructions from the investigating officer submits that W/SI Seema is the investigating officer of the case FIR No.856/2015. U/s 328/365/376/342/506/34 IPC registered at PS Nand Nagri.

2. That, she is on medical leave for the last five months. Amazingly no other investigation officer has been appointed.

3. That, the Police file is stated to have been lost.

An enquiry into the matter was got conducted through ACP/Seemapuri North East District which revealed as under: -

1. The above noted case was registered on the complaint of

Neetu D/o Satbir Singh R/o C-2/442, Nand Nagri, Delhi and investigation was taken up by W/SI Seema No.D-5294, (PS No.28090669).

2. Accused Manish Kumar moved to Delhi High Court for seeking anticipatory bail. The matter was pending before the court vide Bail Application No.2634/2015 Titled Manish Kumar Vs. Govt. of NCT of Delhi and next date was fixed for 18.07.2016.
3. In the meantime, IO W/SI Seema proceeded on leave/medical rest/maternity leave on 11.03.2016. While proceeding on leave, she handed over the keys of her room to her assistant/writer Ct. Deepak, but she did not handover the case files to SHO/MHC (R).
4. As the matter was listed before the Hon'ble High Court for 18.07.2016, some responsible officer had to attend the Hon'ble High Court with case file and status report. Therefore, search for above mentioned case file was made through HC Mukesh Kumar No.128/NE, the then MHC (R), but the same could not be traced in the room of W/SI Seema.
5. SI Amit Kumar No.D-4007 was deputed to attend the Hon'ble High Court of Delhi on 18.07.2016, who appeared before the Hon'ble High Court with case file and submitted that W/SI Seema, IO of the case is on medical leave for last five months and no other IO has been appointed and the police file is stated to have been missing.
6. After hearing, the Hon'ble High Court has taken serious note and called DCP/NE to appear in the court personally on next date of hearing fixed for 29.08.2016.
7. Later, the case file was traced from the Almirah of W/SI Seema by HC Mukesh Kumar and it was handed over to present MHC (R), HC Manoj Kumar No.369/NE. As per

statement of HC Mukesh Kumar, he requested SHO/Nand Nagri a number of times to mark the case files including the file of above mentioned case of W/SI Seema to some other IO, but he refused stating the IOs are not available in the police station.

8. There are several directions and orders of the Hon'ble Court to take up all the women related cases on priority basis and finalise investigation of the cases within time limit, but SHO/Nand Nagri did not pay any attention towards this and failed to mark the above mentioned case file to some other IO and supervise the investigation despite facts that the matter in this case is pending before the Hon'ble High Court.
9. The case file has been marked to W/SI Ina Kumari No.D-1763 on 21.07.2016 for further investigation and same is being closely monitored by SHO/Nand Nagri and ACP/Seemapuri.
10. In view of the above facts, it is concluded that IO, W/SI Seema No.D-5294 is responsible in the matter which is a serious lapse on her part.

The above act on the part of W/SI Seema No.D-5294 amounts to gross negligence, carelessness and unprofessional attitude towards her official duty which renders her liable to be dealt with departmentally under the provisions of Delhi Police (Punishment & Appeal) Rule, 1980.

Therefore, I, Dr. Ajit Kumar Singla, IPS, Dy. Commissioner of Police, North-East District Delhi hereby order that a regular Departmental Enquiry against W/SI Seema No.D-5294 be conducted by Sh. Vichitra Veer, IPS ACP/Shahdara on day-to-day basis, who will submit his findings within a period of Six months from the date of service of summary of allegations etc., upon the defaulter and also comply with the instructions contained in PHQ's circular No.5421-99/P. Cell/P. Br. Misc., dated 22.7.97. He will

also submit weekly progress of D.E. on each Friday.”

4. It is not disputed that when W/SI Seema left for her maternity leave it was within the knowledge of the SHO, the Almirah was in the police station and the keys were with Constable Deepak. This action against WSI Seema is totally without application of mind. The plea taken is that she did not hand over the files to SHO/MHC (R). Having handed over the charge, the keys of the almirah it is not beyond comprehension what else WSI Seema was required to do when she went on maternity leave.

5. A status report has been handed over in Court which is taken on record. As per the status report investigation in FIR No.856/2015 under Sections 328/365/342/376/506/34 IPC registered at PS Nand Nagri is almost complete. Though the complainant alleges sexual assault both in the FIR and the statement recorded under Section 164 Cr.P.C., the registration of marriage with the Registrar, Hindu Marriage-V, Ghaziabad, U.P. has been verified. The registration took place on the same day when the parties got married at Arya Samaj Mandir.

6. Considering the facts and circumstances of the case, I deem it fit to grant anticipatory bail to the petitioner. It is, therefore, directed that in the event of arrest the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- within two sureties of the like amount, subject to the satisfaction of the Arresting Officer/SHO concerned, further subject to the condition that he will join the investigation as and when directed by the Investigating Officer, furnish his permanent residential address and will not leave the country without prior permission of the learned Trial Court.

7. The State would continue to investigate FIR No.1057/2015 registered

under Sections 323/506/341/34 IPC at PS Nand Nagri on the statement of Mahender Singh, brother of the petitioner wherein he alleged that he was attacked by the family members of the prosecutrix.

8. Petition is disposed of. Order dasti.
9. Copy of the order be sent to the Commissioner of Police as well.

MUKTA GUPTA, J.

AUGUST 29, 2016
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