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

+ W.P.(CRL) 1536/2016 and CrI.M.A.8009/2016, 16612/2016,
16613/2016

PRATIMA GUPTA Petitioner

Through: Mr. Sanjay, Advocate

versus

THE UNION OF INDIA & ORS Respondents

Through: Mr. Anil Soni, CGSC for UOI.
Ms. Kamna Vohra, ASC for the State.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **16.05.2017**

The First Information Report (FIR) No.113/2016 of Police Station Pahar Ganj registered on 24.02.2016 involves offences punishable under Section 302 of Indian Penal Code, 1860 (IPC) and Sections 25 and 27 of the Arms Act, 1959. The subject matter of the said case FIR is homicidal death of Rajender Kumar Gupta, the husband of the petitioner herein. During the course of investigation by the local police one Rupesh Kumar, a security guard in Muthoot Group of Finance Limited, in whose premises murder took place, was arrested and eventually sent for prosecution by submission of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

It appears, the afore-said person had surrendered to the police on the same date and it further appears that the fire arm used in the crime seized from his possession was later sent up for ballistic examination, the report issued by Forensic Science Laboratory (FSL) confirming its use on the basis of comparison of the one fired bullet which had been seized, said FSL report

resulting in supplementary report under Section 173 Cr.P.C. also being submitted.

The petitioner herein has been aggrieved with the completeness and fairness of the investigation undertaken. Her allegations primarily are that the motive has not been properly probed and that certain other persons against whom she had a valid reason to suspect have not been arrested nor their role investigated.

Status report has been called for.

Having heard the learned counsel on both sides and having gone through the status report and the record of investigation, the learned counsel for the petitioner now fairly concedes that for the present he would be satisfied if the investigation is transferred from the local police to some superior investigating agency for complete investigation into the inputs which the petitioner has given leading to further report of investigation under Section 173 Cr.P.C. being submitted in the court of Magistrate for its consideration and necessary directions.

In the facts and circumstance, it is directed that the investigation into the above mentioned FIR shall be transferred by the supervisory police officer to the District Investigation Unit (DIU) of the Central Police District of Delhi with empowerment and jurisdiction under Section 173 (8) Cr.P.C. to undertake further investigation into the inputs given by the petitioner, not only by the petition at hand but also through her statement which shall be recorded for such purpose under Section 161 Cr.P.C., a report of such further investigation to be submitted in the court of Metropolitan Magistrate as expeditiously as possible.

While submitting such further report as aforesaid under Section 173 (8) Cr.P.C. pursuant to the further investigation, the investigating agency

shall also appropriately notify the petitioner making available to her a copy of the said report. The concerned Metropolitan Magistrate, in turn, before proceeding to consider such report of further investigation, shall issue and serve a notice on the petitioner, seek her response, if any, whether in affirmation of the report or by way of a protest petition, as the case may be, and consider it for further directions at his end in accordance with law.

Petition is disposed of accordingly.

Copy of the order be given *Dasti* to both the parties.

R.K.GAUBA, J.

MAY 16, 2017

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