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

+ W.P.(CRL) 1958/2016 & CrI.M.A. Nos.10245/2016 & 13039/2016

MOHD. IMAM

..... Petitioner

Through: Mr. Joginder Tuli and Ms. Joshini
Tuli, Advocates

versus

STATE (NCT OF DELHI) & ORS

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel,
GNCTD with Mr. Jamal Akhtar, Adv.
for State with ACP Vichitra Vir,
Shahdara, ACP Sanjay Singh, HQ-NE
and Insp Veer Singh, SHO Nandnagri

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
24.01.2017

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The petitioner has preferred this writ petition to seek a direction to the Commissioner of Police/ respondent No.2 to conduct vigilance and fair inquiry under the supervision of some senior officer against respondent nos.3 to 7, who are the SHO, PS Nand Nagri and other police officers subordinate to him, in relation to FIR No.913/2015 registered under Section 147/148/ 149/186/ 353/332/341/ 379/427/109/114 IPC and section 3 and 4 of Delhi Prevention of Defacement of Public Property Act, 2007 at PS Nand Nagri.

The case of the petitioner is that though the petitioner has had a criminal past, he is trying to join the mainstream. The petitioner has started a family. He has three minor daughters. He is earning his livelihood by selling clothes. The petitioner claims that on 02.07.2016, HC Jitender, Cont. Anuj, Vikas and Jitender, PS Nand Nagri visited his house at about 8:00 p.m. and started harassing his wife. The petitioner reached his home around 9:00 p.m.

Const. Anuj and Vikas put pressure on the petitioner to come to the police station so that he could be arrested in some false case. The petitioner was informed that the same was being done on the orders of the SHO PS Nand Nagri. According to the petitioner, he was being forced into becoming a police informer. The petitioner pleaded with the said officers that he is having three minor daughters and is working hard to bring them up and he should be spared. However, the police officers threatened him and ordered him to reach the police station.

The petitioner then sent a communication dated 04.07.2016 to the Commissioner of Police by speed post which was posted on 05.07.2016. In this complaint, he narrated the aforesaid incident. The petitioner then preferred this writ petition on 11.07.2016. During pendency of this writ petition, the petitioner was sought to be booked under Section 107/151 Cr PC on 21.07.2016 at about 1:09 a.m. The petitioner's wife sent another communication dated 22.07.2016 to the Commissioner of Police vide speed post on 23.07.2016 narrating the filing of the writ petition and the threats issued by the police on 04.07.2016. She also narrated that on 20.07.2016 at about 8:30 p.m. beat constable Anuj, Vikas along with two other police officers, whose names were not known, came to her house and forcefully

tried to take away her husband to PS Nand Nagri as the SHO wanted to meet her husband. No reason was disclosed for the petitioner being taken away. The petitioner's wife then dialled PCR 100 at about 8:55 p.m. She thereafter made three more calls on No.100 till 10:19 a.m. Despite her asking as to on what ground the petitioner had been arrested, she was not informed of the same. The petitioner's wife also stated that SI Amit Kumar along with Constable "KD" came to her house at 1:30 a.m. and demanded money from her and took away Rs.2,000/- from the petitioner's wife. Accordingly, the petitioner moved CrI.M.A. No. 13039/2016 bringing to the notice of this court the aforesaid development.

On 29.08.2016, when CrI.M.A. No. 13039/2016 was taken up for consideration, it was informed to the court by Mr. Mehra that Commissioner of Police has taken the complaint against SI Amit Kumar, HC Jitender, Const. Anuj, Vikas, Jitender and Tarkeshwar seriously and the same is under examination by the Public Grievance Cell of Delhi Police. He also stated that an in-house inquiry is being conducted against the said police officers, which would take four weeks to conclude. He also undertook that none of the said police personnel shall have any concern with the investigation or other proceedings concerning the petitioner.

The status report has been filed which states that FIR No.913/2015 was registered against 38 persons, including the petitioner herein. 14 persons including the petitioner were arrested in the said case on 20.09.2015. A list of cases in which the petitioner has earlier been involved has been given. It is seen that there are 7 cases between the years 2002-2009. Another list of cases of year 2015 registered at PS Jyoti Nagar has also been provided, where the petitioner is allegedly involved. It is stated

that as per routine and on directions of senior officers, the bad character of the area are checked every month. The visit made to the residence of the petitioner on 02.07.2016 is explained as a regular visit. Here itself I may observe that no DD entry was made in the daily diary with regard to the said visit - either at the time of leaving for the said visit, or upon return from the said visit. This gives credence to the allegation of the petitioner that the said visit was not official and was made for the purpose of coercing and pressurising him into turning a police informer. It has also to be observed that this visit was made in the night at between 8:00 p.m. and 9:00 p.m. There could be no justification for making the said visit at such an odd hour. The visit made on 20.07.2016 is also similarly at an odd hour, since the kalandhara was registered in the dead of the night on 21.07.2016.

Whatever be the past of the petitioner with regard to his criminal involvement, it does not mean that he should be subjected to undue harassment by the police and troubled every now and then without any cause or justification. The conduct of the police in the present case does appear to be suspect, since the visit of 02.07.2016 was not recorded – though admittedly made in the night, and the visit of 20.07.2016 – though recorded subsequently, was also made at a late hour. Since the visit on 02.07.2016 had already taken place, it is not even explained as to why the second visit was necessitated in just about 18 days, as it is claimed that such visits are made normally at intervals of a month. The false implication of the petitioner in the kalandhara under Section 107/151 Cr PC can also not be ruled out in the aforesaid background.

Mr. Mehra has assured that the matter has been looked at seriously by the Commissioner of Police. The ACP Mr. Vichitra Vir is also present in

court. He has assured the court that the petitioner and his family members shall not be put to any undue harassment in future and all proceedings undertaken shall be duly recorded.

Taking an overall view of the situation, this court gets a feeling that the petitioner has been subjected to harassment by SHO PS Nand Nagri (It is informed that he has now been replaced) and his sub-ordinates, namely, HC Jitender, and Constables Anuj, Vikas, Jitender and Tarkeshwar. This court is, therefore, of the view that all these police personnel should be transferred out of PS Nand Nagri and posted at different police stations so that they are not posted together at the same police station. The purpose of requiring posting out of the entire team of police officers posted at same police station, to different stations is to break their hegemony.

In future, in case any visit is required to be made to the petitioner of the residence to make any inquiry or for any other purpose, an advance DD entry shall be recorded and only thereafter the visit shall be made. An entry shall also be made upon returning.

A copy of this order be communicated to the Commissioner of Police so that such like aberration - which may be found in other police stations, are similarly dealt with.

VIPIN SANGHI, J

JANUARY 24, 2017

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