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

+ W.P.(CRL) 2586/2016

SUNIL KUMAR @ ANIL KUMAR Petitioner

Through: Mr. Amit Khatana, Advocate

versus

STATE & ORS. Respondent

Through: Ms. Nandita Rao, ASC with SI Amit
Bhati, PS Lajpat Nagar.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

01.02.2017

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The petitioner has preferred the present writ petition to seek quashing of the order dated 25.03.1997 passed by the DCP by which the petitioner's name was included in the Surveillance Register and Bundle A of PS Lajpat Nagar.

The case of the petitioner is that he was involved in several cases and he has either been acquitted, or discharged in all of them, except one and the only other case was in respect of FIR No. 36/96 under Sections 324/34 registered at police station Lajpat Nagar, which too was quashed on a compromise arrived at on 04.05.1997. A status report has been filed which tabulates the six cases in which the petitioner is stated to have been involved. The said tabulation reads as follows:

S.No.	FIR No. & DD No.	U/s	Police Station	Brief Facts of the case	Present status of the case
1.	84/91	304/34	Lajpat	He along with his	Acquitted on

		IPC	Nagar	associate attached the complainant with knife.	24.07.96.
2.	36/96	324/24 IPC	Lajpat Nagar	He along with his father quarrelled with complainant & injured with sharp weapon	Compromised on 04.05.97 in the court of MM, Smt. R R Mitra.
3.	1073/96	307/34 IPC & 27/54/59 Arms Act	Lajpat Nagar	The complainant was attached along with his associated and fired on him with weapon.	Acquitted on 10.12.03 by MM Sh. Sanjiv Jain.
4.	1171/96	25/54/59 Arms Act	Lajpat Nagar	One country made pistol was recovered which was kept in the jungle	Acquitted on 10.12.03 by Sh. Sanjiv Jain.
5.	DD No. 20A, dt. 05.05.98	107/151 Cr.P.C.	Lajpat Nagar	He was involved in a quarrel.	Discharged by SEM
6.	DD No. 34A dt. 02.01.02	U/s 110(G) Cr.P.C.	Mayur Vihar	He was found in a suspicious position	Discharged by SDM

Learned counsel for the petitioner points out that even FIR was not registered in the last case since it has been registered under Section 110(G) of Cr.P.C. The fifth case is also under Section 107/151 Cr.P.C. in which FIR was also not registered.

At this stage, I may observe that the petitioner has, in fact, disclosed his involvement in 7 cases as opposed to 6 cases disclosed in the status report. In one other case, in which the petitioner was involved and acquitted

is arising out of FIR No. 404/97 under Sections 324/34 registered at police station Hari Nagar wherein he was acquitted on 11.02.2003.

Learned counsel for the petitioner submits that the petitioner is a completely reformed person. He is having minor children and he is leading his life by running his livelihood as a Driver engaged in a School. The placing of the petitioner's name in the Surveillance list in Bundle A is a blot on the petitioner's name without any justification. In support of his submission, learned counsel for the petitioner places reliance on the judgment of Division Bench of this Court in ***Mohd. Anis Vs. Commissioner of Police*** 1993 JCC 292, wherein this Court held in paras 4 and 5 as follows:

“(4) The order of opening a history sheet and an order of surveillance is essentially a precautionary measure and has to be based on the past conduct judged in the light of surrounding circumstances. The past conduct must, however, be of such a nature that an inference can reasonably be drawn that the person concerned is habitually addicted to crime or to be an aider or abettor of such person. "Habitually" means "repeatedly" or "persistently" and implies a thread of continuity stringing together similar repetitive acts. If this be the test, we fail to see how the past acts of the petitioner provide any index of his being habitually addicted to crime. He had been acquitted in six out of seven cases long before the impugned order. In the year 1992 he was facing trial in only one case and that too of the year 1986. We fail to see how one solitary case registered almost six years before the passing of the impugned order could possibly persuade any reasonable person to reach the satisfaction that the petitioner was habitually addicted to crime. There being no material to show that the petitioner was persistently engaged in a series of criminal acts and the cases in which he was involved being too remote in matter of time and having ended in acquittal or discharge, no inference of habit can be justifiably raised.

(5) The impugned order has the effect of impairing the image of

the person and interfering with his dignity and honour. Rule 23.9 (2) thus must be applied with circumspection, rationally, reasonably and on relevant materials. Unfortunately, the impugned order does not stand up to this test. The writ petition is thus allowed. The history sheet and the entry of the petitioner's name in the surveillance register is quashed.”

Ms. Rao submits that the name of the petitioner has been downgraded from Bundle A to Bundle B as per the Punjab Police Rules.

In my view, the aforesaid downgrading is no consolation to the petitioner. The aforesaid facts show that the last case registered against the petitioner was in the year 1997. Two decades have passed since then and the petitioner has not been involved in any case in the past two decades. Since the petitioner has now changed his ways and is residing peacefully with his family and earning his livelihood, there is no justification to put him under surveillance. The sword of Damocles cannot be left hanging on his head.

In view of the aforesaid, the petition is allowed and the order dated 25.03.1997 placing the petitioner's name in the surveillance list in Bundle A as well as the decision whereby the petitioner's name has subsequently been placed in Bundle B of the Punjab Police Rules are quashed.

The petition stands disposed of in the above terms.

VIPIN SANGHI, J

FEBRUARY 01, 2017

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