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

+ CRL.M.C. 3732/2016

DEEPTI DUTTA

..... Petitioner

Through: Mr. Praveen Kumar Jain, Mr. Naveen  
Kumar Jain and Mr. Sachin Kumar Jain,  
Advocates with petitioner in person

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Akshai Malik, ASC for R-1/State  
with SI Kajal, SI Rajendra, PS Vikas Puri  
Mr. Abhishek Gupta, Advocate for R-2

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER**

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**25.04.2017**

On the complaint of the petitioner, case FIR no.510/16 was registered on 02.08.2016 in police station Vikas Puri for investigation into the offence under Section 376 of Indian Penal Code, 1860 (IPC). During the course of investigation, the second respondent against whom allegations have been made in the FIR moved bail application 11690/2016 under Section 438 of the Code of Criminal Procedure, 1973 (Cr. PC). The said application was considered and allowed by the court of Additional Sessions Judge (Special Judge) by order dated 20.08.2016 thereby directing that in the event of he being arrested, the second respondent (applicant before the Sessions court) would be

released on he furnishing a personal bond in the sum of Rs.30,000/- with one surety in like amount on the conditions that he would join investigation as and when required by the investigating officer/ SHO of the police station and would not contact the prosecutrix in any manner whatsoever i.e. through telephone, facebook, whatsapp, etc.

The petition at hand was filed under Section 482 Cr. PC by the first informant seeking setting aside of the said anticipatory bail order granted by the sessions court on 20.08.2016 and for direction for the second respondent to be arrested and committed to custody, *inter alia*, on the grounds that the said bail order was granted without justification and that the said respondent had abused the liberty thus granted, amongst others, by indulging in certain publications on the social media (facebook).

The second respondent on notice has appeared and has resisted the application generally denying the allegations. The status report has been submitted by the investigating officer.

On 04.10.2016, it was submitted on behalf of the petitioner that the second respondent had indulged in impersonation by posting different facebook profiles in different names even furnishing her wrong residential address, the submission being that he could be defrauding innocent young girls so as to spoil their lives.

On 18.01.2017, upon perusal of the status report submitted by the SHO, PS Vikas Puri, the court observed that no worthwhile investigation had been carried out. Thus, the Dy. Commissioner of Police of the area was directed to handover the investigation of the

case to another investigating officer so that it could be completed properly. It is submitted by the learned additional public prosecutor that in compliance with the said direction, the investigation was made over to SI Kajal of PS Vikas Puri and that further investigation is being conducted by her. It is also pointed out that the previous investigating officer ASI Anil Sharma had completed the investigation and a report under Section 173 Cr. PC dated 14.01.2017 has already been laid in the court of the Metropolitan Magistrate.

On 18.01.2017, the counsel for the petitioner had also brought to the notice of the court print-out of the facebook profile of the second respondent indicating his name to be Gaurav Gulati, the URL of the said facebook profile being “/arush.malik.1426”. He added that taking advantage of the bail granted to him, the second respondent had since de-activated the said facebook account.

The court issued directions for proper investigation into the subject matter including so as to ascertain as to whether the facebook account with the above mentioned URL had been de-activated and if so, by whom. The further investigation has not reached any effective conclusion till date as reports from the concerned quarters are stated to be still awaited.

During the course of hearing, the learned counsel for the petitioner fairly conceded that the order which is the subject matter of challenge in this petition stands exhausted in as much as it was an anticipatory bail order, the charge-sheet in the course of these proceedings having already been submitted in the court of cognizance

in January 2017 whereupon the second respondent having appeared in response to the process which was issued by the cognizance court having since been released on regular bail. In fact, after cognizance was taken, the presence of the second respondent had been secured, and the case was committed by the court of Magistrate to the court of Sessions, formal charge has been framed, the trial having also commenced and the recording of evidence of the prosecution presently being underway.

Against the above backdrop, what stands out is that the investigating officer to whom the matter was handed over by the Deputy Commissioner of Police, in terms of directions in the order dated 18.01.2017, is carrying out further investigation in exercise of the power vested in the police by virtue of Section 173 (8) Cr. PC. This is so indicated, though indirectly, in the charge-sheet dated 14.01.2017 which was submitted in the court on conclusion of investigation by the previous investigating officer.

The learned additional standing counsel on one hand and the counsel for the petitioner on the other agree, and the counsel for the second respondent submits his no objection, that the allegations made by the petitioner in these proceedings, *inter alia*, by averments in the petition, or through oral submissions as recorded above, also need to be subjected to further investigation which is presently underway so that if any other offences are found to have been committed, whether under IPC or under special law like Information Technology Act, appropriate legal action can be taken thereupon. Ordered

accordingly.

In the above facts and circumstances, it would be proper that further investigation is duly monitored so that it is taken to the logical end expeditiously and effectively. The investigating agency, thus, is directed to place periodic status report of further investigation, on monthly basis, before the concerned Metropolitan Magistrate seeking his directions, if so required, and to conclude further investigation at an early date, preferably within three months from today. The petitioner will be entitled to appear before the concerned Metropolitan Magistrate at the time of consideration of the status reports to make her submissions, if any.

The petition is disposed of with these directions.

A copy of this order shall be sent to the concerned court of Magistrate and the Sessions court where the trial on the charge-sheet earlier filed is presently pending.

*Dasti.*

**R.K.GAUBA, J**

**APRIL 25, 2017**

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