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

Date of decision: 29.5.2017

+ LPA 693/2016

DHEERAJ SINGH

..... Appellant

Through : Mr. Swastik Singh and Mr.  
Himanshu Dagar, Advs.

Versus

COMMISSIONER OF POLICE  
DELHI & ANR

..... Respondents

Through : Mr. Rajesh Mahajan, ASC.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MS. JUSTICE PRATHIBA M. SINGH**

**JUDGMENT (ORAL)**

**SANJIV KHANNA, J.**

**CM No.46041/2016 (Delay)**

The delay of 10 days in filing the appeal is condoned as there is no opposition by the respondents.

The application is disposed of.

**LPA 693/2016 & CM No.46040/2016 (Stay)**

Having heard the learned counsel for appellant we are not inclined to interfere with the impugned order dated 30<sup>th</sup> September, 2016 whereby W.P.(Crl) No.2881/2016 filed by the appellant herein has been dismissed on the ground that it is premature and it

would not be appropriate and proper to set aside and quash the show cause notice dated 20<sup>th</sup> July, 2016 issued under Section 47 read with Section 57 of the Delhi Police Act, 1978.

2. In our opinion, the learned Single Judge has rightly held that no special and extraordinary case is made out for quashing the show cause notice.

3. Issuance of show cause notice by itself does not finally determine the rights of the parties and it is very much possible that no adverse order would be passed against the appellant.

4. This is not a case of inherent lack of jurisdiction and no such plea is raised.

5. Contention of the appellant is that the show cause notice should be set aside and quashed as in some of the cases referred to in the show cause notice, the petitioner/appellant was acquitted. This would not justify direction to drop the show cause notice. The show cause notice merely refers to the allegations against the appellant with regard to commission of certain illegal acts, activities etc. The appellant would have opportunity to respond to the said allegations. The effect of the decisions/judgments would be examined. A final decision is yet to be pronounced.

6. Learned counsel for the appellant relies on *Syed Mushir Ahmed Vs. Deputy Commissioner of Police, 32 (1982) DLT 29*. This was a case of a trade union leader who had taken up issues and grievances of the labourers and was leading them in

demonstrations. For several reasons mentioned in paragraph nos.5 & 6 of the said decision, the show cause notice issued was quashed. Reference was to the facts of the said case. Principle and ratio applied, would not be binding and applicable to the present case.

7. The material paragraphs of the show cause notice dated 20<sup>th</sup> July, 2016 read as under:-

*"In order to give you an opportunity of tendering your explanation regarding the said allegations, I have appointed 09.08.2016 at 10 AM to receive your explanation and to hear you and your witnesses, if any, with regards to said allegations.*

*Now, therefore, in exercise of the powers vested on me under Section 47 of the Delhi Police Act, 1978 conferred upon me by the order of Commissioner of Police Delhi u/s 8 of the Delhi Police Act, 1978, I Manoj C, Addl. Dy. Commissioner of Police, South West District, New Delhi require you to appear before me in my office at Sector 19, Dwarka New Delhi, on the above date and time for the said purpose and also require you to furnish a bond in the sum of Rs.15,000/- (Fifteen Thousand) with one surety in the like amount for your attendance during the proceedings. Should you fail to appear and furnish a bond as directed above, I shall proceed with the enquiry in accordance with provisions of Section 50 of the Delhi Police Act, 1978.*

*ALLEGATIONS: Since, September 2006 you are engaged in commission of illegal acts and your activities and movements are causing alarm, harm and danger to the residents. You have been found involved in the following cases as per record of PS Dabri:-*

| <i>S. No.</i> | <i>FIR No./ Date</i> | <i>Under Section</i>                   | <i>PS</i> |
|---------------|----------------------|----------------------------------------|-----------|
| 1.            | 891/<br>21.09.2006   | 324/341/34 IPC                         | Dabri     |
| 2.            | 931/<br>07.10.2006   | 307/323/341/34 IPC &<br>25/27 Arms Act | Dabri     |
| 3.            | 818/<br>05.12.2008   | 420/468/471/511/120-B<br>IPC           | Dwarka    |
| 4.            | 329/<br>13.04.2016   | 325/34 IPC                             | Dabri     |
| 5.            | 539/<br>06.07.2016   | 385/386 IPC                            | Dabri     |

*That the witnesses including the camera witnesses are not willing to come forward to give evidence in the public against you because of the fear of harm and danger for persons and property at the hands of the respondent, if they do so.”*

8. These are allegations and assertions against the appellant. The appellant has the right and opportunity to rebut the said allegations and in case an adverse order is passed, challenge the same by way of a statutory appeal under the Delhi Police Act.

9. In the facts of the present case, we are not inclined to quash and set aside the show cause notice, at its initial stage. The Learned Single Judge has rightly held that the writ petition is premature.

10. Learned counsel for the respondents has raised a preliminary objection regarding maintainability of the present appeal. We have recorded the said contention but are not deciding the same as the appeal is being decided on merits.

11. The appeal is dismissed. The respondent would comply with the directions given by the Learned Single Judge, as mentioned in para 26 of the impugned order. No orders as to the costs.

**MAY 29, 2017**  
**dk**



**SANJIV KHANNA, J**

**PRATHIBA M. SINGH, J**