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

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W.P.(C) 4037/2018

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Date of decision : 23rd April, 2018

MONALISA KOSARIA

..... Petitioner

Through : Petitioner in person

versus

MINISTRY OF WOMEN AND CHILD DEVELOPMENT AND
ORS.

..... Respondents

Through : Ms. Monika Arora, CGSC for
R-1 & 2 with Mr. Gaurav
Rohilla
Mr. Gautam Narayan, ASC-
GNCTD with Ms. Mahamaya
Chatterjee, Adv. and Insp. Vijay
Kumar

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. This writ petition makes a grievance against the manner in which the Delhi Police solved complaints of cyber crimes against women and seeks issuance of a writ of mandamus to the Delhi Police with regard to registration of FIRs, the investigation into the crimes and collection of evidence. Primarily, the petitioner is aggrieved with

regard to the delayed reaction of the police upon receipt of such complaints.

2. Appearing on advance notice, Mr. Gautam Narayan, learned ASC for the Govt. of NCT of Delhi has drawn our attention to the orders dated 25th October, 2017 and 20th December, 2017 passed in ***W.P.(Crl.) 1006/2015 Pooja Khetan v. Govt. of NCT of Delhi*** wherein a similar grievance had been expressed. For expediency, we extract the two orders hereafter :

Order dated 25th October, 2017

“ Mr. Rahul Mehra, the learned Senior Standing Counsel (Criminal) appearing on behalf of the GNCTD, states upon instructions that pursuant to this Court’s earlier orders, the Delhi Police has notified a Standing Order No. 442 of 2016, which has superseded the previous Standing Order No.333 of 2008 pertaining to the cyber crimes. The procedure prescribed in the instant Standing Order is detailed and envisages the creation of Cyber Cells at the Police Station as well as the District level. According to the learned counsel, each Police Station is supposed to have a Cyber Team comprising two Sub-Inspectors, two subordinate staff of Head Constable/Constable level and an Inspector, one member of the Cyber Team is to be a lady officer.

At the District level, the Cyber Team is under the overall supervision of ACP (Operations) who would have the assistance of other senior personnel.

Mr. Mehra further submits that pursuant to the aforesaid Standing Order, 1058 police personnel have undergone training by the Cyber Cell/Economic Offences Wing. These trained personnel comprise 183 Inspectors, 815 Sub-Inspectors, 10 Assistant Sub-Inspectors, 13 Head Constables and 37 Constables. He emphasises that all these officers are currently in the employment of Delhi Police and are attached to its Cyber Crime Team in some capacity or the

other. He further submits that regular training is being imparted to several batches of officers. Each batch has 150 officers.

According to another Standing Order No.448 of 2017, upon registration of an FIR, the Investigating Officer is to identify all CCTV cameras in and around the relevant spot of occurrence, without any avoidable delay.

In the circumstances of the present case, the DCP (Legal), PHQ, is accordingly directed to submit details of all the steps taken towards the collection of CCTV System Hard Disks (not later than 48 hours) from the registration of an FIR in compliance of the aforesaid Standing Order. He shall also furnish details regarding the replacement of the seized Hard Disks/Storage Machines with device of same or similar specifications, from where they had been seized so that there is an uninterrupted operation of the CCTV System.

Another Standing Order No. 451 of 2017 directs the use of Call Detail Records (CDRs) analysis in investigation of cases. The Investigating Officer is supposed to collect the user data for investigation in criminal cases. The analysis of CDRs is detailed in point 5 of said Standing Order covering the Caller No./Called No., IMEI, IMSI, Date & Time, Duration, Type of Call, Cell ID, CAF or Subscriber Data.

To assess the extent of operation and adherence to Standing Order 451/2017, the DCP of each District shall furnish, before the next date of hearing, data regarding requests for CDR analysis made by the police in all cases under their jurisdiction, to the DCP (Legal), PHQ, within four weeks from today, who in turn shall file an affidavit detailing the total number of CDR analysis undertaken by the Delhi Police during investigation since the inception of the aforesaid Standing Order.

Mr. Mehra submits that the Crime Mobile Team, whose mandate is to reach the scene of crime as soon as possible to collect evidence, needs requisite equipment and staff including such Cyber/Technical Experts, possessing the basic qualification of MCA or B.Tech Computer Science, as forming an intrinsic part of each Mobile Crime Team.

Since crimes nowadays are inevitably linked to technology and the Internet, there is a pressing need to have such a Technical Expert available at the Police Station level, District level and in each Cyber Cell. Accordingly, the affidavit to be filed by the DCP (Legal) shall also deal with the issue of Cyber/Technical Experts – with the afore-prescribed basic qualification, being a part of its existing Mobile Crime Team.

List on 20.12.2017 for further proceedings.”

Order dated 20th December, 2017

“ An affidavit has been handed over in terms of the last order of this Court signed by DCP, Legal Cell, PHQ, Delhi, inter alia deposes as under:-

“3. That the Standing Orders No. 448/2017 and 451/2017 were issued on 26/4/2017 in compliance of above directions, the affidavit is being filed on the basis of the official information on these issues from 01/05/2017 till 31/10/2017 available, which is as under:-

3.1 That during the above period 34 No. of Hard Discs were collected within 48 hrs of registration of F.I.R,

3.2 That 54 Nos of Hard Discs were collected after 48 Hrs. of registration of F.I.R,

3.3 That during the corresponding period 24 Hard Discs were replaced by Delhi Police,’

4. That during the period under consideration a total number of 74,181 requests for obtaining CDRs (call Detail Records) for the purpose of investigation were sent to Service Providers.

4.1 That during the corresponding period 81,905 CDRs have been received from the Service Providers.

5. That as far as Cyber/Technical Experts with basic qualification of MCA or B. Tech is concerned it is submitted that as of now 5 B.Tech. qualified 2 MCA qualified officers are working in Delhi Police cyber cells of districts.

5.1 That it is further submitted that officers posted in

cyber cell and Police Station Crime Teams have been imparted training in cyber crime investigation. The task of Investigation Officers on the Police Station Crime Teams is to identify the relevant digital evidences at and around the scene of crime, collect them, label them, pack them and thereafter send them to State Forensic Labs (FSL/CFSL) for expert opinion. The requirement of graduate/post graduate degree in Computer Science/ Computer Application/Information Technology may not be required for carrying out the above detailed collection and seizure of digital evidences. With the training such as the one being currently imparted, the Investigation Officers can carry out the requisite task satisfactorily. However, the newer trends in the field of computers and information technology indicate that more and more devices are getting networked and connected to cloud server. For crime scenes involving live server and cloud based system, specialized skill sets may be required for identification, extraction, collection and seizure of relevant digital evidence. For this purpose appropriate steps shall be taken in due course as it involves other stake holders also”.

However, Mr. Rahul Mehra, the learned Standing counsel for the State states that there are 14 districts, of which 13 districts are equipped with mobile crime investigation teams. For the 14th district, which was recently created, a team shall be in place within a month's time. Let it be so done.

According to the affidavit, for the entire police force, there are only 5 B.Tech and 2 Mechanical Experts/Qualified Officers in all the Delhi Police District Cyber Cells. The Court would note that apart from requirement of such qualified personnel for the mobile crime investigation teams, they would also require to be stationed in the District Cyber Cell. For all the police districts, a minimum 14 such qualified officers would be required in the police force. Requisite provision would also have to be made for their replacement

and substitution in case of any exigency. The seven officers who are mentioned in the affidavit and presently available to attend to Cyber Cell would ordinarily be deputed only for this work and would therefore not be available for delegation to any other similar nature of work.

There is no doubt that there is an urgent requirement of qualified personnel to attend to monitoring, preventing and investigating cyber crimes in the NCT of Delhi. Citizens need to be protected from such menace. It is therefore, in the interest of justice, and for the protection of the citizens that requisite qualified officers are inducted into the police force forthwith. Dealing with cyber crimes needs constant monitoring, quick response and alacrity. This can be done only by well-equipped, qualified and dedicated personnel. It is therefore expected that 14 personnel having a minimum qualification of B.Tech and Master in Computer Applications will be inducted into the police force or otherwise be placed at the disposal of the police on contractual basis, by the end of February, 2018.

*This order be brought to the notice to the Chief Secretary of Delhi for appropriate action.
List on 16.03.2018.”*

3. It would, therefore appear that the issues have received the attention of the learned Single Judge. The same have been substantially addressed by the Delhi Police itself which has designated authorities for examination and investigation of complaints of cyber crimes and have also notified standard operating procedures in this regard. In view, this writ petition need not detain this court any further.

4. In case the writ petitioner has any specific complaint of non-action on the part of the Delhi Police, it is open for her to take appropriate action in accordance with law with regard thereto.
5. This writ petition is disposed of in the above terms.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

APRIL 23, 2018/kr



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