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

+ **W.P.(CRL) 2866/2018**

SONU

..... Petitioner

Represented by: Mr. Avnik, Mr. Sachidanand, Advs.

versus

STATE & ORS

..... Respondent

Represented by: Mr. Avi Singh, ASC for State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

11.12.2018

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1. By this petition the petitioner has sought police protection and initiation of proceedings against errant officials. Case of the petitioner is that on 13th May, 2016 at 8.30 PM the petitioner received a phone call and the caller identified himself as Shambhu living in his locality and known to the petitioner. Shambhu asked the petitioner to reach metro pillar No. 880 where two vehicles were already parked. In the back seat of the first car Shambhu Jha was seated with another person. When the petitioner reached the pillar one person came out of the car and asked the petitioner his name. Thereafter the petitioner with his friend Shambhu was taken to Police Station and his mobile phone was seized.

2. On 14th May, 2016 at 1.00 AM medical examination of the petitioner and his friend was conducted and they were kept in the lock up and were

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granted bail in the evening of 14th May, 2016 by the Special Executive Magistrate. It is the case of the petitioner that the petitioner was falsely implicated in the case by the errant Police Officers and thus action be taken against them and he be provided protection.

3. A status report has been filed indicating that ASI Banwari was deputed as an emergency officer at PS Dwarka Northh from 8.00AM to 8.00 PM on 13th May, 2016 at the time of MCD election in Delhi which were to be held on 15th May, 2016. As per the code of conduct of Election Commission no candidate could hold a meeting after 5.00 PM. ASI Banwari with PSI Manjeet were returning after attending PCR call through C-Block J.J. Colony Bharat Vihar, when they found that in front of H.No. C-267 J.J. Colony many persons had gathered and two persons namely Sonu and Shambhu Jha were threatening people to vote in favour of their candidate otherwise the people will have to face consequences.

4. It is on this apprehension of disturbance of peace and public tranquillity, on the facts as noted above, preventive action under Section 107/151 Cr.P.C. and DD No. 64B was lodged at 9.45 PM for proceeding under Section 107/151 Cr.P.C. Besides the petitioner, Shambhu Kumar Jha had also filed a writ petition before this Court challenging the preventive action taken by the Special Executive Magistrate being W.P.(CRL) 1943/2016 which was withdrawn by Shambhu Kumar Jha. Kalandra under Section 107/151 Cr.P.C. has already been disposed of on 24th September, 2016. From the personal search memo only a mobile phone was recovered which was deposited at PS Malkhana. The arrest memo and the personal search memo have been duly signed by the petitioner without any protest.

Though typed copy of the complaint addressed to Lt. Governor has been placed on record, however it is not evident as on which date this complaint was sent to the Lt. Governor.

5. Considering the status report and the fact that the Kalandra was a preventive action taken in the exigencies of the situation and the same has been disposed of, no further orders are called for in this case.

6. Petition is dismissed.

MUKTA GUPTA, J.

DECEMBER 11, 2018
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