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

+ **W.P.(CRL) 952/2017**

RAJENDER KUMAR

..... Petitioner

Represented by: Mr. N.S. Dalal, Advocate.

versus

ADDL COMMISSIONER OF POLICE & ORS Respondents

Represented by: Mr. Rajesh Mahajan,
Additional Standing Counsel
for State with SI Rajesh
Kumar, PS Kotla Mubarak Pur.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

23.08.2018

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1. By this petition the petitioner inter alia prays:

- (i) *Issue an appropriate writ, order or direction thereby directing the respondents to place on record the action taken by them regarding the complaint of the petitioner dated 17.02.2014 & 11.08.2015 forwarded by the Central Vigilance Commission to the Special Commissioner (Vigilance) and also to the Chief Secretary, Govt. of N.C.T. of Delhi;*
- (ii) *Issue an appropriate writ, order or direction thereby directing the respondents to submit the report as to why the investigation has not been completed qua the said complaints till date;*
- (iii) *Issue an appropriate writ, order or direction thereby directing the Commissioner of Police to get the facts mentioned in the Audio investigated and direct the*

registration of an F.I.R. and appropriate action against the police officials for getting false case registered against the brother of the petitioner;

(iv) Pass any such other or further orders as this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the case, in favour of the petitioner and against the respondents.

2. Learned counsel for the petitioner in the first instance submitted that despite the petitioner having made a complaint on 17th February, 2014 for the incident dated 24th December, 2013 alleging false implication of his brother in FIR No.449/2013 by the police officers of PS Kotla Mubarakpur at Delhi, no action was taken on the said complaint addressed to the Central Vigilance Commission.

3. On this Court pointing out towards the affidavit filed by DCP, Vigilance, Delhi Police Headquarter with regard to the vigilance inquiry conducted and narrating the facts stated therein enclosing the complaint given by the petitioner to the Special Commissioner of Police (Vigilance) and the manner in which the inquiry was conducted, learned counsel for the petitioner thereafter submitted that though the petitioner was once called for joining the vigilance inquiry however, he did not make any statement nor was the same recorded.

4. This Court has perused the file of vigilance inquiry which shows that the petitioner was called during the vigilance inquiry on 3rd June, 2016 when not only his statement was recorded but the vigilance inquiry officer also questioned the petitioner with regard to the attending circumstances and

facts and his reply was noted. Each page of his statement so recorded has been signed by the petitioner which fact is not now disputed.

5. Learned counsel for the petitioner then submits that since the vigilance inquiry was conducted on his complaint the petitioner ought to have been given the right to cross-examine the witnesses who appeared in the witness box.

6. The inquiry conducted by the vigilance department was neither a trial nor departmental proceedings, mandating/permitting cross-examination of the witnesses recorded. The vigilance inquiry officer under the supervision of the DCP (Vigilance) and the Special Commissioner of Police (Vigilance) recorded the statements of each of the witnesses from both the sides and questioned the said witnesses on relevant facts. Thus this Court finds no error in the procedure adopted by the vigilance inquiry.

7. Learned counsel for the petitioner next contends that since vigilance inquiry was conducted on the complaint of the petitioner the petitioner is entitled to the report of the vigilance inquiry. Learned counsel for the petitioner does not state whether any application in this regard under the Right to Information Act was filed by the petitioner.

8. Be that as it may, reply affidavit to the present petition has been filed by DCP, Vigilance Raj Kumar Jha, who has explained the facts of the case and the course of action adopted for the vigilance inquiry and noted the report of vigilance inquiry.

9. Considering that a vigilance inquiry on the complaint of the petitioner has already been conducted by the police headquarter duly approved by the Special Commissioner of Police (Vigilance), this Court finds no reason to

pass any further order in the present petition.

10. Petition is dismissed.

MUKTA GUPTA, J.

AUGUST 23, 2018/‘vn’