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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : April 26, 2018

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W.P.(CRL.) 2535/2016

BABITA

..... Petitioner

Represented by: Mr.S.K.Vashistha, Advocate

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Represented by: Mr.Ranbir Singh Kundu (ASC) for
State with Ms.Suman Saharan,
Advocate and SI Ram Bhau, PS
Khyala

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (Oral)

1. By the present petition, the petitioner seeks the following prayers:-

A. To issue a writ of mandamus thereby directing the respondent not to allow the illegal business of country made liquor, Charas & Ganja and other illegal activities from premises no. B-3/963, JJ Colony, Raghubir Nagar, New Delhi-27.

B. To issue a writ of mandamus thereby directing the respondent to initiate appropriate legal proceedings against the accused persons as per the complaint of the petitioner.

C. To issue a writ of mandamus to direct the respondent to transfer the investigation of the cases lodged by the petitioner by an independent agency like CBI or any other agency.

D. To provide adequate protection to the life and property of petitioner and her family members.

E. To pass any other relief which this Hon'ble court may deem fit and proper in the facts and circumstance of the case in favour of the petitioner and against the respondent, in the interest of justice.

2. Grievance of the petitioner is that in the vicinity of the petitioner from H.No.B-3/963, J.J.Colony, Raghbir Nagar, Delhi accused persons, namely, Jogesh Choudhary, Rajesh Choudhary, Pintu Choudhary and Vishnu Choudhary, all sons of Badri Choudhary, Veeru Kumar, Robin Choudhary, son of Kailash Choudhary, Prem Lata, wife of Jogesh Choudhary, Chandni, wife of Vishnu Choudhary, Kanchan, wife of Robin Choudhary and Kanchan wife of Rajesh Choudhary were indulging in illegal business of country made liquor, Charas and Ganja and other narcotic drugs, besides other illegal activities. In this regard, petitioner had lodged a complaint against Rajesh, Dinesh, Vishnu and Pintu on 7th July, 2013 but no action was taken. On 9th August, 2013, the accused persons forcibly trespassed into the house of the petitioner, started beating him and hurled filthy abuses. On raising an objection, petitioner was forcibly raped even in presence of her son and her gold articles were also looted. Despite clear cut allegations of rape, the police lodged NCR No.709/2013 against the ladies Prem Lata, Chandni and Kanchan under Section 323 IPC. Since no FIR was registered, petitioner approached the DCP (West) on 30th August, 2013 and thereafter the learned CMM (West) with a complaint under Section 156(3) Cr.P.C. resulting in registration of FIR No.737/2014 under Sections 323/354/354A/34 IPC. Again when the petitioner was subjected to

harassment and beating on 9th January, 2014, FIR No.23/2014 was registered under Sections 323/34 IPC but no proper action was taken. On 22nd October, 2015, the accused persons again picked up a quarrel and despite petitioner's call, no action was taken, however, a Kalandra under Sections 107/150 Cr.P.C. was prepared. It is alleged that the accused again trespassed into the house of the petitioner, threatening to kidnap and rape her daughter and kill her son on 27th April, 2016 on which FIR No.210/2016 under Sections 323/341/34 IPC was registered.

3. On a notice being issued, a status report has been filed detailing the action taken on each of the complaint received. As per the status report, since the offence alleged on 9th August, 2013 pursuant to the PCR call related to non-cognizable offence and the injury was simple in nature, the NCR was lodged and handed over to the petitioner. Again on the incident dated 8th January, 2014 since the offence punishable under Section 323/34 IPC was made out, NCR was again registered being No.23/2014 on 9th January, 2014 itself. Further charge sheet has been filed in FIR No.737/2014 under Sections 323/354/354A/34 IPC at PS Khayala. Again on the PCR call received on 3rd December, 2014 since the MLC opined simple injury, NCR No.529/2014 was recorded and copy of the same with the MLC was handed over to the petitioner. Even on 22nd October, 2015, again an NCR was lodged being NCR No.435/2015 under Sections 323/34 IPC. On the complaint dated 27th April, 2016, FIR No.209/2016 under Sections 308/34 IPC was registered. Accused persons were arrested and after completion of investigation, charge sheet was filed. For the incident dated 27th April, 2016, a cross FIR was also registered against the petitioner and on her husband FIR No.201/2016 under Sections 323/341/34 IPC

wherein also charge sheet has been filed after completion of investigation.

4. As per the status report, Jogesh Choudhary and his wife Prem Lata were earlier residing at B-3/936, J.J.Colony, Raghubir Nagar, New Delhi just opposite the house of the petitioner and after the date of incident i.e. 27th April, 2016, they have shifted to House No.740A, Ground Floor, Pocket 2, Paschim Puri, Delhi. During the course of investigation, no illegal business or illegal activity such as selling of country made liquor, Charas, Ganja or any narcotic drug etc. were found to be conducted. The premises B-3/936, J.J.Colony, Raghubir Nagar, New Delhi is lying vacant.

5. Since on the complaints of the petitioner action in accordance with law has already been taken and presently none is residing at B-3/936, J.J.Colony, Raghubir Nagar and no illegal selling of narcotic or illicit liquor is taken place, this Court finds no ground to direct any further action.

6. Petition is dismissed.

(MUKTA GUPTA)
JUDGE

APRIL 26, 2018

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