

\$~33

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

+ **W.P.(CRL) 1990/2017 & CrI.M.A. 11091/2017**

SH MANOHAR LAL GOEL

..... Petitioner

Represented by: **Mr. C.S. Panda, Mr. Sanjeev
Kumar, Advs.**

versus

STATE OF NCT OF DELHI & ORS

..... Respondent

Represented by: **Ms. Kamna Vohra, ASC with
SI Shailendra PS Subhash
Place.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
17.01.2018

%

1. The petitioner, father of deceased Vikas Goel, has filed the present petition seeking a writ of mandamus directing the respondents to register an FIR, taking action against the accused and impose exemplary damages for causing him mental agony, loss of peace and harmony besides costs for dereliction of duty by the Police officers.

2. Case of the petitioner is that he is a social activist campaigning for the cause of clean environment and thus raised complaints in connection with running of a plastic shoes factory in the locality where he was residing i.e. Sri Nagar, Shakur Basti, Delhi. A PCR call was made on 6th February, 2016 vide DD No.22A by PS Subhash Place regarding a quarrel at H.No. WZ-

432, Gali No.1, Sri Nagar, Shakur Basti, Delhi. It is alleged that accused committed the murder of his son who had to be admitted in the hospital with complaint of chest pain. No MLC was prepared which was a serious omission on the part of the Police and that on the death of the petitioner's son no action was taken against the accused.

3. It is the case of the petitioner in his statement to the Inspector Vigilance Branch that on 6th February, 2016 morning his son Vikas and daughter-in-law Komal along with their grand-son reached their house at around 7.00 AM. The petitioner left the house at 8.00 AM taking the card as his younger son Ashish was to be married on 17th February, 2016. He visited the house of the MLA, Rohini Mohinder Goel and took help of one worker Rekha Goel to reach the house. He stayed back there up to 10.00 AM and presented the marriage card to him. In the meanwhile his son Vikas Goel's telephone came telling him that some guests have dropped in. So he reached back to his home at 10.45 AM. As he started parking his car, his son Vikas opened the gate and at that time car of Deepak Goel was parked in front of the factory, unloading the articles. The petitioner requested Deepak to adjust his car so as to enable the petitioner to move the car to his house. Thereafter the petitioner parked his car inside the garage, however Deepak and his wife started abusing his son Vikas Goel and physically assaulted him. The petitioner rushed to the rescue of his son but they did not pay heed. 15-20 persons entered their house from the factory of Deepak Goel and physically assaulted his family members. Deepak Goel gave a heavy blow on the chest of Vikas Goel due to which he collapsed. The assaulting party fled away from the scene and they took Vikas Goel to Maharaja Aggarsen Hospital accompanied by Roshan Goel, uncle of Deepak Goel.

His son was medically checked up and shifted to operation theatre and was declared dead at 9.00 PM. After the death of his son, his daughter-in-law and her mother dialled at 100 number but nothing transpired. His daughter-in-law Komal had also dialled at 100 number at 11.30 AM in the morning.

4. A status report has been filed by the State in response to the petition. As per the status report records from PS Subhash Place, PS Punjabi Bagh, Maharaja Aggarsen Hospital, PCR form, copy of the call log book were all scrutinized and it was revealed that on 6th February, 2016 two PCR calls were received regarding quarrel at Sri Nagar, Shakur Basti at PS Subhash Place first at 10.30 AM at H.No. WZ-482 and second at 11.28 AM at H.No. WZ-432. The first call was recorded vide DD No.20A and assigned to ASI Om Pal Singh. After one hour when the second call was received at 11.28 AM it was recorded vide DD No.22A. The same was also marked to ASI Om Pal Singh and both were filed as no information was received regarding admission of Vikas Goel or his passing away. On 7th February, 2016 a PCR call was received recorded vide DD No.22A regarding quarrel in Sri Nagar, Shakur Basti at PS Subhash Place and the same was marked to HC Mukesh where the petitioner was found present however he did not give any statement and only stated that his son has expired and alleged persons killed him. Now he would implicate them. In the absence of any complaint by the petitioner the call was filed. As per the PCR forms and call log books, in respect of the first call it was noted “*Do Gadio Ki Mamuli Touching No injured*” and in respect of the second call it was noted “*Do Padosiyon Ki Kaha Suni Thi No Injured*”. Thus the noting of the PCR officials who reached at the spot and against whom there is no allegation is that there was no injured and thus no injured was removed to the hospital, which PCR

officials would have done if anyone was injured.

5. At Maharaja Aggrasen Hospital no MLC was prepared of Vikas Goel as Vikas Goel was admitted with complaint of chest pain since 2 hours at 12.45 PM and it was noted “heart command” in state of cardiogenic shock and ECG revealed Acute Anterior all MI. Cause of death of Vikas Goel was also mentioned as “CAD-Acute Anterior Wall MI with cardiogenic Shock with DVD-7”. Statements of various persons including the Constables and Head Constables on duty were recorded.

6. Constable Subhash Chander Sharma who was on duty from 8.00 AM to 8.00 PM at PCR Van I/C C-74 informed that on that date a call was marked to them with effect to quarrel at H.No.WZ-432, Gali No.1, Sri Nagar, Shakur Basti and when they reached the spot, complainant was not found present and there was no quarrel. He called the complainant on the mobile number given in the PCR call and spoke to the caller when Komal Goel told that there was a quarrel on the issue of car touching but now Police need was not required. Despite repeated requests Smt. Komal did not join the enquiry and it was informed that Smt. Komal was married to the younger brother of the deceased and they have permanently shifted to Bangalore.

7. During the enquiry, petitioner produced three local residents who stated that on 6th February, 2016 heavy quarrel/ beatings took place between the family of the complainant and alleged persons whereas the version on the other side was that there was no manhandling. Irrespective of the place of incident there is no allegation that the Doctors of Maharaja Aggrasen Hospital did not perform their duties. There was no history of quarrel/ beating alleged to Dr. Sahu in causality and thus no MLC was prepared.

Further neither any post-mortem examination was requested by the petitioner nor suggested by the Doctors and thus no post-mortem examination was conducted. The PCR had reached the spot immediately within four minutes where none was found present and the only information from Ms. Komal was that a minor touching of vehicles and verbal arguments had taken place. From the medical papers of deceased Vikas Goel it was apparent that from the entire sequence of events no cognizable offence was made out, hence no MLC was prepared, no post-mortem of the deceased was conducted and the Police did not register any FIR. In the enquiry conducted, no foul play on the part of the local Police was found and their version was corroborated by PCR forms, Log books and immediate entries made.

8. As noted above, the death of Vikas Goel was for medical reason due to the Acute Anterior wall MI. Hence, this Court finds no ground to issue a writ of mandamus to the respondents to register FIR or pass any further order.

9. Petition and application are dismissed.

MUKTA GUPTA, J.

JANUARY 17, 2018

‘ga’