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

+ W.P.(CRL) 2203/2017 & CrI.M.A.12428/2017 (directions)

RITESH KUMAR MURTI

... Petitioner

Represented by: Mr.G.S.Sharma with
Mr.R.A.Sharma, Advocates

versus

STATE (GNCT DELHI) & ANR

... Respondents

Represented by: Mr.R.S.Kundu, ASC for the
Stat with Ms.Suman Saharan,
Advocate
SI Amit Sehrawat, PS Hari
Nagar

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

30.07.2018

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1. By this petition the petitioner seeks respondent to pay a compensation of at least ₹20 lakh for the permanent disability caused by Rafiqulla and Rustom in the presence of the warder when the petitioner was lodged in judicial custody.
2. The case of the petitioner is that on 30th March, 2017 the petitioner was lodged in barrack No.3, Ward No.14 of Central Jail No.4 wherein besides the petitioner, 53 other inmates were lodged. The time of alleged incident is 7.30 p.m. when the barracks of the ward were in the process of

lock-up for the night. Petitioner alleges that two of his fellow inmates Rahul and Rafiqulla had an argument with him in relation to an electric bulb that was not working. On hearing the heated exchange between the petitioner on one side and Rahul and Rafiqulla on the other side, the warder Vinay Dwivedi entered the barrack to enquire about the cause of argument. Rafiqulla told the warder that the petitioner fused the electric bulb. Thereafter, Rustam, son of Rafiqulla stepped out of the barrack and seeing him, Rafiqulla also came out of the barrack. It is alleged by the petitioner that the warder, Rustom and Rafiqulla took the petitioner out of ward No.14 where Rustom and Rafiqulla hit the petitioner. After the beating, the petitioner was lodged in the barrack and thereafter the warder Vinay Dwivedi brought medicines for the petitioner, as he was complaining of pain, which he consumed and fell asleep.

3. On the next day, i.e. 31st March, 2017, the petitioner requested that he should be taken to the jail dispensary but as there was no schedule of the OPD for inmates of Ward No.14, he was not taken. The petitioner states that he thus complained to Rustom, who had allegedly beaten him, who brought medicine for the petitioner which he consumed. The petitioner was taken to OPD after few days and on that day, he complained about the incident to the Deputy Superintendent of Central Jail.

4. The petitioner states that in view of this assault on the petitioner, he has been rendered handicapped and is on wheel chair and thus, should be provided compensation.

5. A detailed Status Report has been filed by respondent No.2. As per the OPD medical card of the petitioner, the petitioner first visited the OPD

dispensary on 25th January, 2017, thereafter on 7th April, 2017 as emergency patient and was admitted in the jail dispensary up to 11th April, 2017. Petitioner was again hospitalized from 27th April, 2017 to 18th May, 2017. In the visit at the jail dispensary on 7th April, 2017 or his admissions therein or even during the visit to the DDU hospital, the petitioner did not state that the reason for cause of pain in the back was the alleged beating by Rafiqulla and Rustom. Further, no request was made by the petitioner for change of his barrack or the ward. During the normal course of administration, the petitioner was shifted on 19th May, 2017 from a barrack, which was a Cell in ward No.4B in view of his medical condition. On 19th June, 2017, MRI DL Spine of petitioner was done at Department of Radio-diagnosis, Maulana Azad Medical College and Lok Nayak Hospital. In the MRI report, the doctors opined the following:

“MR DL Spine reveals, disco degenerative changes in form of multilevel disc desiccation and diffuse disc bulge at C3-C4, C4-C5 and L4-L5 and L5-S1 level with bilateral neural foraminal narrowing at lumbar level as described above.”

6. The above report itself indicates that pain was due to degeneration in the spine and not due to assault.

7. Petitioner has been in custody since 16th November, 2014 and is facing trial in case FIR No.2141/2014 under Section 376 IPC and Section 6 of the Protection of Children from Sexual Offences Act registered at PS Mangol Puri. It is thus evident that the petitioner was being regularly produced before the learned Trial Court however he did not complain to the learned Trial Court about any assault on him. Petitioner did not even give

any complaint to the jail authorities or the Jail visiting Judge and straightaway preferred the present petition in July, 2017 wherein on a direction to file reply affidavit, inquiries were conducted and the petitioner gave his statement. Further, even when produced before the Maulana Azad Medical College and Lok Nayak Hospital the petitioner never alleged any assault. His complaint was only of severe backache. Further, the medical report of 21st November, 2017 placed on record suggest no tenderness, no swelling, no distal neurovascular deficit and range of movement is within normal level. The petitioner having not suffered any physical disability and from the medical report it is not apparent that the petitioner was assaulted, this Court finds no ground to grant any compensation to the petitioner.

8. Petition and the application are dismissed.

MUKTA GUPTA, J.

JULY 30, 2018
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