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

+ **W.P.(CRL) 3556/2018**

SHASHI

..... Petitioner

Through: Mr. Krishan Kumar and Mr. S.P.
Nangia, Advocates.

Versus

THE STATE & ORS

..... Respondents

Through: Mr. Rajesh Mahajan, ASC for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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13.12.2018

The learned Additional Standing Counsel for the State submits that a Status Report has been filed. Let it be brought on record. He submits that the case already stands transferred to DIU (North-East District). He further submits that cases have been filed against Mr. Rajiv Tomar and the latter has filed a case against the petitioner.

The learned counsel for the petitioner submits that the Public Grievance Cell has found extensive and serious lapses in conduct of the government servant i.e. a police officer, in the present case. It has noted as under:-

“During enquiry call details (CDRs) phone numbers of the complainant and alleged Ct. Rajiv Tomar were obtained for the period from 15.12.2017 to 15.1.2018. From the analysis of the call details it has been found that between 25.12.2017 to 28.12.2017, total 20 calls were made by Ct. Rajiv Tomar on the phone of the complainant on the other hand, there is no call from the phone of the complainant on the phone of alleged Ct. Rajiv Tomar. Some very long calls were also made by the alleged Ct. Rajiv Tomar on the phone

of the complainant at very odd hours on 25.12.2017 and 27.12.2017. From the analysis of the CDRs, whole story of Ct. Rajiv Tomar appears to be bogus as stated by him in his complaint on which the case was registered in a very hasty manner by SHO Inspr. Vipin Sharma of PS Nand Nagri. There are total 23 calls from the side of alleged Ct. Rajiv Tomar on the phone of the complainant. The complainant made only 2 calls from her phone on to the phone of the alleged Ct. Rajiv Tomar. 1st call on 2.1.2018 of duration 0 seconds and 2nd call of duration 68 seconds. Furthermore, the complaint of the complainant about commission of rape by alleged Ct. Rajiv Tomar is also looked into afresh for needful action.

4. Directions of PGC

As per the ATR of Vigilance, it has been concluded by Vigilance that the case registered against complainant appears to be bogus and on the other hand, no action was taken on the complaint of the complainant and the same was filed in a hurried manner though the allegations were of serious nature.

Considering the above facts, prima facie, it appears that SHO, Harsh Vihar fabricated the false evidence, made fake charge of offence with the intent to injure the complainant. The acts and omissions of the SHO also amounts to harbouring the offender. Hence, the directions are issued as under:

"DCP(North East) to examine and take appropriate criminal action against SHO and others for the above acts and omissions.

"DCP (North East) is directed to take appropriate action on the complaint of rape filed by the present complainant against Constable Rajiv Tomar.

With the above advice, the Commission has decided to close the case in PGC. However, further proceedings in the case shall be taken up in Police Complaints Authority (PCA)."

In the circumstances, the Court is of the view that the investigation may be supervised by the DCP of the area concerned. It is expected that

investigations will be completed in the next two months and the petitioner shall be kept informed of the progress in the matter.

No further orders are required at this stage.

The petition stands disposed-off in the above terms.

NAJMI WAZIRI, J.

DECEMBER 13, 2018

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