

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

% Decided on: 26th July, 2018

+ **W.P.(CRL) 3607/2017 and Crl. M.A. No.21386/2017 (Stay)**

AJAY @ BHAGIRA

..... Petitioner

Represented by: Mr. S.S. Singh, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Mr. Rajesh Mahajan,
Additional Standing Counsel
for State with Inspector Manoj
Sharma, SI Anuj Kumar, PS
Mayur Vihar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. A show cause notice dated 14th October, 2016 was issued against the petitioner under Section 50 of the Delhi Police Act, 1978 (in short 'DP Act') by the Additional DCP, East District, on the ground that the petitioner was engaged in the commission of crime involving offences punishable under Chapter V-A, X, XI, XVI, XIII of IPC, NDPS Act and Gambling Act and his movements and acts are causing and calculated to cause alarm, danger and harm to the person or property, there were reasonable grounds to believe that he engages or is likely to engage in the commission of offences punishable under Chapter V-A, X, XI, XVI, XIII of IPC, NDPS Act and Gambling Act and that he was not involved in a single isolated incident but indulged in criminal activities since year 2001 and continues the same and was so desperate and dangerous so as to render being at large in Delhi or in any part thereof hazardous to the community and that witnesses were not

willing to come forward to give evidence in public against him by reason of apprehension on their part as regards the safety of their person or property and there being reasonable grounds to believe that he was likely to engage himself in commission of offences.

2. The show cause notice mentioned involvement of the petitioner in the following cases:

Sl. No.	FIR No.	Date	Section of Law	Police Station	Present Status
1.	140	10.06.2001	354/323 IPC	Mayur Vihar	Pending Trial
2.	108	10.05.2002	323/341/34 IPC	Mayur Vihar	Pending Trial
3.	126	31.05.2002	365/302/201/120-B/364 IPC	Mayur Vihar	Acquittal
4.	335	29.12.2002	323/341/325/34 IPC	Mayur Vihar	Pending Trial
5.	252	05.05.2005	353/186/332/506 IPC	Mayur Vihar	Conviction
6.	359	14.10.2013	20/61/85 NDPS Act	Mayur Vihar	Pending Trial
7.	645	04.10.2015	12/9/55 Gambling Act	Mayur Vihar	Pending Trial
8.	214	25.05.2016	12/9/55 Gambling Act	Mayur Vihar	Pending Inv.
9.	298	09.08.2016	12/9/55 Gambling Act	Mayur Vihar	Pending Inv.

3. The Additional DCP also recorded statements of two public witnesses in camera who deposed about fear of safety to their life and property.

4. Pursuant to the show cause notice, petitioner filed his reply inter alia taking the pleas that in some cases he was acquitted or discharged and that he was not involved in any commission of offence as mentioned.

5. During the enquiry, SHO Mayur Vihar was summoned who placed on record the relevant records and the petitioner was asked whether he would lead any defence evidence and the petitioner examined one defence witness.

Thereafter the petitioner sought number of adjournments which were granted. The Additional DCP finally passed the order dated 14th September, 2017 directing the petitioner to remove himself from the limits of NCT of Delhi within a period of seven days from the date of order for a period of two years except permitting him to attend the Courts at Delhi on all dates of hearing.

6. Aggrieved by the order dated 14th September, 2017 under Section 47 of the DP Act, petitioner filed an appeal before the Lieutenant Government which was dismissed vide order dated 8th November, 2017.

7. In the present petition the petitioner challenges the two orders dated 14th September, 2017 passed by the Additional DCP, East District and the order dated 8th November, 2017 passed by the Lieutenant Governor.

8. The main contention of learned counsel for the petitioner is that the petitioner wanted to examine four defence witnesses however, he was permitted to examine only one defence witness and not allowed to examine the three other witnesses, hence the inquiry against the petitioner is vitiated.

9. This Court has perused the original file of externment. After the prosecution witness SHO, PS Mayur Vihar was examined and cross-examined by the learned counsel for the petitioner on 9th March, 2017, the proceedings were adjourned to 11th April, 2017 for the petitioner to produce his defence witnesses. No list of witnesses was filed by the petitioner. On 11th April, 2017, the petitioner absented without any intimation and thus bailable warrants were issued against the petitioner through SHO, PS Mayur Vihar for 2nd May, 2017 when the petitioner was present without counsel. He was granted one more opportunity to produce his defence witnesses and the inquiry was posted for 23rd May, 2017. Even on 23rd May, 2017 the

petitioner was present without counsel but produced one witness Niranjana Prasad, whose statement was recorded and placed on record. The petitioner stated that he had no other defence witness to produce in his defence and the matter was listed for arguments on 13th June, 2017 when the petitioner was present without counsel. Again on 7th July, 2017, 1st August, 2017, 1st September, 2017 and 14th September, 2017 the petitioner appeared without counsel and hence on 14th September, 2017, the Additional DCP heard arguments on behalf of the State as well as the petitioner and after going through the material on record passed the impugned order dated 14th September, 2017.

10. Though the case of the petitioner is that he wanted to examine four defence witnesses, however, as noted above, he never expressed his intention to examine four defence witnesses and produced only one defence witness whereafter he stated that he had no other defence witness to be produced. The order sheets have been duly signed by the petitioner. Hence the plea of the petitioner that the inquiry stands vitiated for not permitting the petitioner to lead the defence evidence is rejected.

11. Considering the material on record and the propensity of the petitioner coupled with the statements of the witnesses recorded in camera, this Court finds no error in the impugned orders.

12. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

JULY 26, 2017
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