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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 3594/2017 & CrI. M.A. 247/2018**
DEEPA ARYA Petitioner

Through: Mr. Kirti Uppal along with Mr. Vikas Pahwa, Sr. Advocates.
Ms. Manisha Tyagi, Advocate along with Mr. Avadh Kaushik, Ms. Kinnorp Ghosh, Mr. Prashant Sharma, Mr. Pragalb Bhardwaj and Mr. Robin Singh, Advocates.
Mr. R.K. Saini, Advocate appearing in person.
Mr. Mehmood Pracha, Advocate along with Mr. R.H.A. Sikander, Mr. Prateek Gupta and Mohd. Danish, Advocates along with petitioners in person.

versus

UOI & ORS. Respondents
Through: Mr. Rahul Mehra, Standing Counsel along with Mr. Tushar Sannu, Mr. Jamal Akhtar, Mr. Prashant Singh and Mr. Chaitanya Gosain, Advocates.
Mr. Sanjeev Bhandari, Special Public Prosecutor, Central Bureau of Investigation along with Mr. Prateek Kumar, Advocate.
Mr. Nivesh Sharma, Advocate along with Mr. Anil Soni, CGSC for UOI.
Sh. Romil Baaniya, DCP/South District along with Mr. Anand Rai, ACP/S.J. Enclave.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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05.01.2018

Crl. M.A. 247/2018 (under Section 482 Cr.P.C. for directions)

In terms of the directions issued by this Court by way of order dated 19.12.2017, Mr. Romil Baaniya, DCP, South District, New Delhi, has handed over in Court today an affidavit dated 05.01.2018. The same is taken on record.

A perusal of the said affidavit reveals in paragraph 13 as follows:-

“13. That the following facts have emerged after perusal of entire material on record:-

a) On 17.12.17, Mrs. Purnima Uppal complainant of case FIR No. 400/16 PS Safdar Jung Enclave, Delhi detained Ms. Deepa Arya in the jurisdiction of PS Rohini North and informed local police vide DD No. 17A dated 17.12.17 at 03:26 PM. She was taken to PS Rohini North and information was given to PS SJ Enclave. Police of PS SJ Enclave reached after sunset and therefore Ms. Deepa Arya was released by the Police of PS Rohini North.

b) On 18.12.17 SI Naresh and Chhittha Munshi of PS SJ Enclave directed ASI Mahender No. 840/SD to accompany complainant party of case FIR No. 400/16 PS SJ Enclave in a private car to search Ms. Deepa Arya. No. DD entries of departure and arrival of ASI Mahender were found lodged in Daily Diary register of PS SJ Enclave.

c) On 18.12.17 ASI Mahender No. 840/SD along with complainant party reached outside the house of Advocate Sh. R K Saini i.e. Flat No. A-34, First Floor, Village Kotla, Mayur Vihar, Phase-I, Delhi in the private care i.e. Mercedes of the complainant party.

d) On 18.12.2017, SI Naresh obtained NBWs of Ms. Deepa Arya in case FIR No. 400/16 PS SJ Enclave after 7 days of cancellation of her bail. In DD No. 15 B at 09:40 AM dated 18.12.2017 SI Naresh made his departure to Saket Court in FIR No. 480/17 only but in court he moved an application for obtaining NBWs of Ms. Deepa Arya in case FIR No. 400/16 PS SJ Enclave without any forwarding remarks in the application by SHO or any other inspector.

e) On 18.12.17 Ms. Deepa Arya filed a W P (Crl.) MC No. 5367/2017 before the Hon'ble High Court of Delhi Against the orders of trial court dated 11-12-2017 cancelling her bail. The matter was listed at 03:40 PM and Hon'ble High Court ordered not to take coercive action against Ms. Deepa Arya. SI Ajay, Inspr. Sanjay Rawat and Ld. APP Mukesh communicated telephonically SI Naresh about the court orders. SI Ajay informed him about Court orders at 03:53 PM dated 18.12.17, Ld. APP Sh. Mukesh informed him at 03:55 PM dated 18.02.17 and Inspr. Sanjay Rawat informed him at 04:03 PM dated 18.12.17.

f) Advocated Sh. Avadh Kaushik sent a text message to SI Naresh at 03:48 PM "Sir High Court se Ms. Deepa Arya ke arrest per stay ho gaya h.. No coercive action be taken" but SI Naresh failed or ignored to see this message.

g) At the spot i.e. outside the house of Advocate Sh. R K Saini, the building owner Sh. Monu Singh also informed SI Naresh about the court orders and requested him to call or speak to Advocate Sh. R K Saini but SI Naresh refused to call or speak.

h) SI Naresh broke open the doors and apprehended Ms. Deepa Arya between 04:30 PM to 04:45 PM with the help of W/Ct. Sanju No. 3086/SD, PS SJ Enclave despite knowledge of court orders for not to take any coercive action against Ms. Deepa Arya.

i) At no time SI Naresh prepared any documents pertaining to the apprehension/arrest of Ms. Deepa Arya.

j) SI Naresh used his private car to reach Mayur Vihar and used his private care to escort Ms. Deepa Arya."

Further, in paragraph 14 of the said affidavit, following inferences have been drawn:-

"14. That material on record suggests that:-

a) There is a serious lapse on part of SI Naresh Kumar No. D-4060 in apprehending Ms. Deepa Arya despite knowledge of Hon'ble Court order for not taking any coercive action against

her.

b) He apprehended her after breaking open the doors of the house of Advocate R K Saini despite knowledge of court orders.

c) He also directed ASI Mahender No. 840/SD to board the private car of the complainant to search Ms. Deepa Arya.

d) At the time of apprehending Ms. Deepa Arya he failed to prepare any documents pertaining to her arrest/apprehension.

e) He also failed to get forwarded the NBW application of Ms. Deepa Arya in case FIR No. 400/16, PS S J Enclave from SHO or any other Inspector.

f) He also failed to obey the directions of ACP/S J Enclave and SHO/S J Enclave and acted on his own will.”

Paragraph 15 of the said affidavit then goes on to detail the action taken against the delinquent police officials as follows:-

“15. That following action has been taken against the delinquent police officials-

a) SI Naresh Kumar No. D-4060 has already been closed to District Lines, South District and a regular Departmental Enquiry for imposing major penalty has been initiated against him.

b) Show Cause Notice for censure to ASI Mahender No. 840/SD and W/Ct. Sanju No. 3086/SD has been issued.

c) Explanation of SHO Insp. Sanjay Rawat has been called for lack of supervision on his part.”

In view of the foregoing, and after expressing our appreciation to Mr. Romil Baaniya, the concerned DCP and commending the free, fair and impartial enquiry conducted by him into the unsavoury incident, we are satisfied that appropriate action in accordance with law has been taken by the

Delhi Police.

In this view of the matter, whilst reserving liberty to the petitioners to pursue the complaints dated 30.12.2017 filed by them with Police Station Pandav Nagar; in relation to the alleged commission of a cognizable offences by the delinquent officials and other private individuals, we are of the view that no further orders are called for in the present petition.

Mr. Rahul Mehra, learned Standing Counsel, on instructions, assures us that necessary action in accordance with law will also be taken by the Delhi Police in relation to the complaints filed on behalf of the petitioners. He also assures us that the petitioner No. 1 shall continue to be afforded adequate security and that quarterly reviews in relation to the threat perception to her shall be made by the DCP (Special Branch).

Directed accordingly.

The petition is disposed off.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

JANUARY 05, 2018

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