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

+ LPA 40/2019 & CM APPLs. 2517-2519/2019

PRADEEP SINGH Appellant
Through: Dr. M.K. Gahlani, Adv.

versus

STATE NCT OF DELHI & ORS Respondents
Through: Mr. Sanjoy Ghose, ASC, GNCTD
with Mr. Rhishabh Jetley, Adv. for
GNCTD.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **06.03.2019**

CM APPL. 2518/2019 (*exemption*)

Allowed, subject to just exceptions.

CM APPL. 2519/2019 (*delay*)

In view of the reasons stated in the application, delay in filing the appeal is condoned.

The application stands disposed of.

LPA 40/2019 & CM APPL. 2517/2019 (*stay*)

1. Seeking exception to an order passed by the writ court on 12.11.2018 in W.P.(C) 1647/2018, this appeal has been filed under Clause 10 of the Letters Patent.

2. Petitioner/appellant herein had filed the writ petition seeking quashing of an Inquiry Report dated 29.09.2017 whereby certain allegations made by the petitioner regarding tampering of records by the Investigating Officer was found to be unsustainable. Petitioner wanted the report to be set aside and action taken against the respondent concerned who is responsible for having tampered with the investigation report.

3. The learned writ court examined the issue in detail and found that the matter is under examination before the concerned Magistrate in a complaint filed by the petitioner under Section 156(3) of the Cr.P.C. and in Paras 9, 10 and 11 made the following observation before disposing of the writ petition:

“9. The concerned Magistrate is examining the petitioner’s complaint under Section 156(3) of Cr.P.C. and there is no reason to believe that the Magistrate will not examine whether the allegations made by the petitioner, make out a case for infringement of copyright. Any grievance with regard to the investigation report can also be examined in the said proceedings.

10. Insofar as the petitioner’s claim regarding tampering of records is concerned, the Vigilance Department has conducted an inquiry and has found the petitioner’s claim against the concerned investigating officers to be unmerited. According to the petitioner, his complaint would be established if the email dated 25.08.2011 is examined by the Vigilance Department. According to him, the copy of the script, which was subsequently produced, was not attached with the said email.

11. This Court finds it difficult to accept that any interference with regard to the impugned inquiry report is warranted. The complaint made by the petitioner has been examined and there is little scope to examine the disputed facts. Nonetheless, this Court considers it apposite to direct the Assistant Commissioner of Police, Public Grievance Cell to examine the

email dated 25.08.2011, stated to have been sent by Sh. Surya Kumar Upadhyay, to ascertain whether the script of “Baba Tusi Great Ho” was attached to the said email.”

4. In our considered view, once the matter is pending consideration before the concerned Magistrate and the grievance with regard to the petitioner could be raised before the concerned Magistrate, we see no error in the order passed by the learned writ court warranting indulgence into the matter. The petitioner can always make the grievance before the Magistrate concerned where the issue is pending.

5. The appeal as well as the pending application stand disposed of accordingly.

CHIEF JUSTICE

V. KAMESWAR RAO, J

MARCH 06, 2019

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