

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

Date of decision: November 01, 2019

+ **W.P.(CRL) 3038/2019 and CRL.M.A. 39133/2019**

IRFAN JAVED QURESHI Petitioner

Through Mr. Aditya Aggarwal and Mr.
Amit Rana, Advocate

versus

STATE Respondent

Through Ms. Kamna Vohra, ASC with Mr.
Jamal Akhtar for Mr. Rahul Mehra,
Standing Counsel with SI Vijay,
P.S.: Sadar Bazar

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J (oral)

1. This is a petition for quashing of notice dated 11.07.2019 issued under Section 50 of the Delhi Police Act, 1978 to the petitioner.

2. Learned counsel for the petitioner has drawn the attention of this court to the notice dated 11.07.2019. As per notice, the petitioner is said to be involved in seven cases. Learned counsel however states that out of seven cases mentioned therein, case no. 1, 2 and 3 stand compounded, case no. 3 and 4 stand quashed and case no. 5,6 and 7 are still pending. He further states that notice issued by Additional DCP is without any

application of mind and there no material on record before the concerned Additional DCP to the effect that witnesses are being threatened in any manner by the petitioner. It is, therefore, prayed that the notice does not fulfill the requirement of Section 50 of D.P. Act and is required to be quashed.

3. Learned counsel for the petitioner in support of its contention has also relied upon a judgment of this Court titled as *Karan Singh Vs. Deputy Commissioner of Police, (West Delhi)*, CRL.Writ Appeal No. 61/1982 decided on 19.03.1987.

4. Learned ASC for the State, on the other hand, has objected to the quashing of the notice issued to the petitioner at this stage. It is submitted that the petitioner has not appeared before the concerned DCP and his daughter only appeared before the concerned DCP on 27.08.2019 and sought adjournment. She has further argued that the petitioner has a remedy available before him i.e. he can make all his submissions before DCP concerned. She has further submitted that in case petitioner is not heard by DCP, the petitioner can file an appeal under Section 51 of the Delhi Police Act, 1978.

5. I have heard learned counsels for the parties and have perused the record.

6. As per the notice dated 11.07.2019 issued under Section 50 of the Delhi Police Act, the petitioner is involved in seven cases. Out of the seven cases, case no. 1, 2 and 3 stand settled, whereas case no. 3 and 4 stand quashed and case no. 5, 6 and 7 are still pending before the

competent authority. According to learned counsel for the petitioner, the petitioner ought not to have been issued notice as there was no material on record to suggest that because of alleged threats extended by him witnesses are not coming forward to depose. In the opinion of this court, this submission can be made by the petitioner before Additional DCP concerned also. There are no grounds to presume that Additional DCP concerned will not hear the petitioner and will pass the order without even considering his submission. The petitioner has however chosen not to appear before Additional DCP for the reasons best known to him. Even if, it is presumed for the sake of argument that submissions will not be heard and considered by Additional DCP, the petitioner has an efficacious remedy available in the form of appeal under Section 51 of the D.P. Act.

7. In view of the above discussion, the present petition is not maintainable being premature. It is also not maintainable for the reason that an equally efficacious remedy is available to the petitioner in the form of appeal under Section 51 of the D.P. Act.

8. In view of the above submissions, the present petition stands dismissed and disposed of accordingly.

(BRIJESH SETHI)
JUDGE

NOVEMBER 01, 2019
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