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

% **Judgment Reserved On: 22.10.2019**
Judgment Pronounced On: 06.02.2020

+ W.P.(CRL) 2827/2019

RAJESH KAPOOR

..... Petitioner

Through Mr. Satish Aggarwal & Mr.
Gagan Vaswani Advocates.

versus

STATE & ORS.

..... Respondent

Through Mr. R.S.Kundu, ASC for R-1.

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J

1. This is a Writ Petition filed by the petitioner for issuance of Writ of Mandamus for issuing directions to the Commissioner of Police to look into the matter and to take appropriate action against Sh. Dharmender, Sub-inspector/Assistant Sub-Inspector and other members of his team. It is also prayed that direction be issued for restoration of the mobile phone no. 8076631177 to the petitioner and direct officer to furnish CCTV footage of the relevant time.

2. Ld. Counsel for the petitioner submitted that the petitioner is a petty shop-keeper. On 28.09.2019, a police official had come to his shop and arrested his employee Subhash on the plea that he is in possession of stolen television. According to the petitioner, there was one accused with him who had stated that after committing the theft of television, he had sold the same to his employee Subhash. However, instead of taking Subhash with them, the petitioner was ordered to sit in a private vehicle and proceeded towards Police Station Vasant Kunj. The employee Subhash was also directed to reach there where Dharmender, Sub-inspector/Assistant Sub-Inspector asked the petitioner to arrange Rs. 50,000/- otherwise he would be arrested in a case of theft and for receiving stolen television. The petitioner had shown his inability to pay the said amount.

3. After reaching police Station Vasant Kunj(North), the petitioner was made to sit there and his mobile phone was snatched by Dharmender, Sub-inspector/Assistant Sub-Inspector and he was directed to arrange money. After some time, petitioner sought the permission to go to washroom and after using the washroom, the petitioner ran away from the premises of the Police Station Vasant Kunj(North). It is

submitted by Ld. Counsel for the petitioner that there is an apprehension that petitioner will be impleaded in a false case.

4. Ld. Additional Standing Counsel has filed reply and submitted that on the complaint of one Mani Shankar Mishra, case FIR No. 000462/2019 was registered in Police Station Vasant Kunj(North), New Delhi. A theft had taken place in the godown of the complainant at Gali No. 6, Mahipalpur. Certain LED TVs, bags of mobile phones, Laptop and Printers were stolen. During the course of investigation, one accused Sonu was arrested on 25.09.2019. At the instance of accused Sonu, co-accused Satender was also arrested. One another co-accused Sonu Rajpur was also arrested on 26.09.2019. He had disclosed that he had sold one stolen LED TV to one Rajesh, i.e., petitioner in the present Writ Petition. Later on a raid was conducted at the shop of the petitioner and accused Sonu Rajput pointed out that he had sold the LED TV to the petitioner who was sitting in the shop. On being examined, the petitioner had submitted that he had purchased the stolen LED TV for Rs. 5,000/-. He has, however, kept the LED TV at some other place. One LED TV was recovered, however, it did not have Logo of SKY and Barcode of the complainant company. It was suspected that present

petitioner had intentionally removed the Logo and Barcode so that the case property cannot be identified. In these circumstances, petitioner was asked to accompany the raiding team to PS Vasabnt Kunj. On reaching PS Vasant Kunj, the complainant had identified the recovered LED TV as the one which was stolen from his godown. On this, the petitioner got nervous and escaped from the Police Station.

5. Affidavit has also been filed by the police official Dharmender Meena. He has denied the allegations, levelled by the petitioner.

6. I have considered the rival submissions. The petitioner has been suspected of having received the stolen LED TV. There are allegations that in order to hide the identity of said LED TV, he had intentionally removed the Logo and Barcode of the complainant company. He was granted interim protection by Ld. Additional Session Judge. However, he had not co-operated in the investigation. The petitioner is yet to be interrogated. In case the petitioner has any grievance against the police officials, he has the remedy to approach Commissioner of Police who can take appropriate action against the police officials after ascertaining the veracity of the complaint. In case any offence is committed by police officials, the petitioner has a remedy to file a complaint before

higher authorities of police or before Ld. MM. However, in the present case, there are allegations against the petitioner under Section 411 Cr.P.C. The investigation is at initial stage and the police cannot be stopped from investigating the offence in accordance with law. No grounds are made out for issuance of any directions for any action against the police officials at this stage. Ld. Counsel for the petitioner in the end has, however, prayed that petitioner be allowed the presence of lawyer during investigation. Though there is no prayer in the writ petition to the said effect, however, in the interest of justice, let the interrogation of the petitioner, if he so desires, be held within the sight of his advocate or any other person duly authorized by him. However, it is made clear that the advocate or the person authorized by the respondent may watch the proceedings from a distance or from behind a glass partition but he will not be within the hearing distance and it will not be open to the respondent to have consultations with him in the course of the interrogation.

7. The petition stands disposed of in view of the above directions.

BRIJESH SETHI, J

FEBRUARY 6, 2020

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