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

+ W.P.(CRL) 599/2019

SWAMI SADACHARI SAI BABA OMJI Petitioner

Through: Petitioner in person.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr R. S. Kundu, ASC for State with
Mr Hitesh Vali, Advocate for State
with SI Deepak Kumar, PS IP Estate,
Delhi.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.03.2020

CRL.M.A. 4191/2019

1. Allowed, subject to all just exceptions.

W.P.(CRL) 599/2019 & CRL.M.A. 4190/2019

2. The petitioner has filed the present petition, *inter alia*, praying that the investigation in relation to FIR No. 30/2017, under Sections 354/341/509/34 of the IPC, be transferred from Delhi Police to CBI/NIA/SIT or to any other independent/impartial investigating agency.

3. The petitioner, who is present in the Court, states that the said FIR had been registered at the instance of the wife of Shri Mangal Pandey, as a counter blast to several other cases that had been filed against him. He submits that Shri Mangal Pandey is a *pujari* at the Hari Har Yoga Ashram

and there is a dispute between him and Swami Santoshanand. He claims that Swami Santoshanand is his disciple.

4. The petitioner submits that on 15.01.2017, an FIR bearing no.10/2017 was registered with PS IP Estate under Sections 377/506/34 of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) against Shri Mangal Pandey, as well as his two real brothers. He states that on the following day, that is on 16.01.2017, another FIR bearing No.12/2017 was registered with PS IP Estate under Sections 341/509/34 of the IPC, against Shri Mangal Pandey and his two brothers. He submits that in addition, Swami Santoshanand has also filed complaints against the complainant (the wife of Shri Mangal Pandey).

5. The petitioner states that information under the Right to Information Act, 2005 indicates that on 07.02.2017, a PCR call was made by the complainant indicating that she was not permitted to go inside the Ashram. He states that on the same date, the complainant (wife of Shri Mangal Pandey) had also filed a complaint indicating a domestic quarrel between her and Shri Mangal Pandey. He, next, submits that the police officials are biased and are acting at the behest of the complainant and one other celebrity. He states that this would be clearly evident from the call records, which would establish that at the time of the alleged incident, he was not present at the site.

6. Mr Kundu, learned ASC appearing for the State submits that a chargesheet was filed and on 05.01.2020, the learned Trial Court had issued directions for investigating the call record details. Thereafter, a supplementary chargesheet had also been filed. He submits that in this

view, the allegations made by the petitioner are not sustainable.

7. The averments made in the present petition and the written arguments on behalf of the petitioner, *prima facie*, indicate that there is a long-standing dispute between the complainant, the petitioner and Swami Santoshanand. However, this Court does not consider it apposite to issue any directions with regard to the investigation, as it is seen that the Trial Court has issued directions that were considered necessary. The chargesheet has been filed and the question whether the charges are required to be framed would be considered by the Trial Court at an appropriate stage.

8. However, since allegations have been made by the petitioner regarding the impartiality of the investigation; thus, without going into the merits of the allegations, this Court considers it apposite to direct that further investigation, if any, not be conducted by the IO in question but be transferred to DIU, Central District. It is so directed.

9. No further orders are required to be passed in this petition. The same is disposed of. The pending application is also disposed of.

10. Order *dasti* under the signatures of the Court Master.

VIBHU BAKHRU, J

MARCH 12, 2020

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