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

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Date of Decision: 5th November, 2020

+ W.P.(C) 3861/2020

COURT ON ITS OWN MOTION

..... Petitioner

Through: Court on its own

versus

UNOIN OF INDIA & ORS.

..... Respondents

Through: Mr.Chetan Sharma, ASG with
Mr.Manish Mohan, CGSC, Ms.Manisha Saroha,
Advocate for R1/UOI
Mr.Sanjoy Ghose, ASC, GNCTD

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D.N. PATEL, Chief Justice (Oral)**

Proceedings of the matter have been conducted through video conferencing.

1. This writ petition has been initiated by this Court on its own motion on the basis of a letter received from Smt. Savitri Devi, a resident of House No.D-303, Lane No.14, New Ashok Nagar, Delhi-110096 dated 21.01.2020 addressed to this Court. The grievance ventilated in the aforesaid letter is that the SHO of PS New Ashok Nagar has beaten the applicant and her son and her son has suffered serious injury on his tooth.

2. This Court has issued notice and the respondents have filed their

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affidavits.

3. We have heard the learned counsel for the respondents who has taken this Court to the details of the affidavit filed by the respondents.

4. We have perused the affidavits filed by the respondents. Para 2 of the affidavit dated 14.10.2020 filed by the Deputy Commissioner of Police, East District reads as under:

“2. That pursuant to the directions of this Hon’ble Court, it is hereby submitted as follows:

a. At the outset, all allegations put forth by the Complainant vide her complaint are false, untrue, concocted and entirely baseless,

b. It is submitted that the Respondent No. 2 was holding charge of SHO, PS New Ashok Nagar at the time of the incident however, he is presently posted in Security Unit of Delhi Police at Vinay Marg, Delhi.

c. The Complainant has alleged that on 27.12.2019 her son Mr. Jogender Kumar, age about 44 years, was falsely implicated in case of breach of peace and arrested under section 107/151 Code of Criminal Procedure, 1973 by the Answering Respondent at the time when he was holding charge as SHO, New Ashok Nagar, Delhi-110096, in collusion with other alleged persons, namely, Mr. Satish Gupta and his family members.

d. Mr. Satish Gupta resides at H. No. D-311, Street No. 14, New Ashok Nagar, Delhi and he was carrying out illegal boring and illegal construction at his home and Mr. Jogender Kumar informed police and other concerned civic agencies about the illegal boring and construction work, due to which the son of the Complainant was falsely implicated and arrested by the Answering Respondent, at the time when he was holding charge as SHO, New Ashok Nagar, Delhi-110096.

e. The Complainant also alleged that she was also slapped and abused by the Answering Respondent and her son was also beaten by him.

f. As regards the allegations against Respondent No. 2, it is submitted that on 27.12.2019, demolition was being carried out under the supervision of Sh.Narender Singh, JE, EDMC Zone, B-II along with his staff and Police staff was also deployed at the demolition site EDMC i.e. H. No-D-311 New Ashok Nagar, Delhi.

g. That a PCR call regarding quarrel was received at PS New Ashok Nagar vide DD No 11A dated 27.12.2019. On receiving the PCR Call, SI Raghuraj Singh along with staff, reached the spot i.e. D-311, street No.14 New Ashok Nagar and found that one person who was later identified as Joginder Kumar, s/o Hemchand Sharma r/o D-303, Street No.14, New Ashok Nagar, age 44 years, was very aggressive and he was holding the collar of one person, namely Satish Gupta s/o Harcharan Gupta r/o D-311 New Ashok Nagar, Delhi and was abusing him.

h. That SI Raghuraj tried to calm down Joginder Kumar, but he was adamant. In the meantime, Respondent No. 2/Inspector T.R. Meena, the then SHO, PS New Ashok Nagar also reached the spot and asked Joginder Kumar to calm down but all in vain. There was a strong apprehension of breach of peace. Hence, Respondent No. 2 apprised the then ACP, Sub-Division Kalyanpuri, about the situation. After discussing the situation with ACP, Respondent No. 2 directed SI Raghuraj to take action u/s 107/151 Cr.PC. Thus, SI Raghuraj took action vide DD No. 26A w/s 107/151 Cr.PC against Joginder Kumar.

(A copy of Kalandara is enclosed as Annexure - A.)

i. During the process of arrest, Joginder Kumar hit himself on face and threatened to implicate the Police officers in a false case, by way of alleging false accusations and allegations. After arrest, medical examination of Joginder Kumar was also conducted from LBS Hospital Kalyanpuri, vide MLC No 013381/2019.

After examination, the doctor mentioned the injuries as (i) Loosening two lower central incisors. (ii) No swelling or bleeding present over gums. No swelling present over upper & lower lips.

j. That Joginder Kumar was produced before the court of Special Executive Magistrate (SEM), East Distt., on 28.12.2019. During his production, before the SEM, Counsel of Joginder Kumar was also present. It is also pertinent to mention here that while Joginder Kumar was being produced before the Court of Special Executive Magistrate, East Distt., approximately 20/25 residents of the D-Block, New Ashok Nagar reached in SEM Court and submitted a joint complaint to SEM against Joginder Kumar. The same was acknowledged by SEM, East Distt. It is submitted that behavior of Joginder Kumar was very aggressive and violent even in the court. The same observation has also been made by SEM in order dated 28.12.2019. (A copy of the order dated 28.12.2019 is annexed herewith and marked as Annexure - B.)

k. That it is also pertinent to mention here that Joginder Kumar was admitted to bail to furnish a personal bond/surety in the amount of Rs 10,000 but Joginder Kumar could neither produce such surety nor any valuable document to furnish his personal bond. In absence of the same he was sent to judicial custody.

l. On 21.01.2020, Joginder Kumar, s/o the present petitioner admitted the allegations mentioned in Kalanadara u/s 107/151 Cr.PC dated 27.12.2019 and he submitted his personal bond for a sum of Rs 10,000.

(A copy of the statement of Mr.Joginder Kumar, admitting the allegations against him, along with the bond furnished by Mr.Joginder Kumar is annexed herewith and marked as Annexure-C (Colly).

m. That it is also pertinent to mention here that while Jogender Kumar s/o Sh. Hemchand Sharma was brought before the court of Special Executive Magistrate, East Distt, Delhi then residents of D-Block New Ashok Nagar, Delhi against Jogender Kumar and the same was

acknowledged by Ld. SEM, East Distt. The Ld. Magistrate vide order dated 28/12/2019 also categorically mentioned and recorded that: "the Respondent is very aggressive and violent even in the court. It is presumed that how much aggressive he should have been at public place at the time of apprehension."

(A copy of the order dated 28/12/2019 passed by Ld. SEM, East Distt. is annexed here with and marked as Annexure - D.)

n. That on 22.12.2019, two PCR calls were made from Phone No.8860144143 that unauthorized boring is being done at H. No-D-311 New Ashok Nagar and police is not taking any action. In this regard a Kalandara u/s 5/15, Environment Protection Act, 1986 was prepared vide DD No-52A dated 22.12.2019 against Satish Gupta s/o Harcharan Gupta r/o D-311 Street No-14, New Ashok Nagar, Delhi and Kishor Kumar s/o Kalumal r/o 427/6 Block Dakshin Puri, Delhi.

(A copy of the Kalandara prepared vide DD No-52A dated 22.12.2019 against Satish Gupta s/o Harcharan Gupta r/o D-311 Street No-14 New Ashok Nagar is annexed herewith and marked as Annexure-E).

o. That on 06.12.2019, 4 PCR calls with the contents "D-311 New Ashok Nagar Block D Gali No-14 Satish Gupta has brought materials and kept the same inside. During night boring for submersible pump would be done" were received in PS New Ashok Nagar vide No- 18A, 20A, 32A & 36A.

p. It is submitted that action was taken in this regard and ASI Chanderbhan deposited three boring pipes u/s 66 DP Act vide DD No. 53A dated 06.12.2019 in Malkhana of PS New Ashok Nagar. These pipes are still lying in Malkhana.

(A copy of DD Entries dated 06.12.2019, along with report is annexed herewith and marked as Annexure - F Colly.)

(A copy of Store-room register, along with DD Entry No. 53A is annexed herewith and marked as Annexure - G Colly.)

q. That it is also relevant to mention here that the petitioner had made representations before various agencies i.e. Vigilance, PG Commission, Senior Citizen Security Cell of Delhi Police etc and based upon petitioner's complaints, an enquiry was conducted through the then ACP/Public Grievances Cell East Distt, Delhi and during enquiry allegations leveled by the complainant could not be substantiated hence the complaint was recommended to be filed. Petitioner was also intimated regarding the outcome of her complaint.

(A copy of enquiry report of ACP/Public Grievances Cell, East Distt, Delhi is annexed herewith and marked as Annexure - H.)

r. That Joginder Kumar made complaints to various agencies and the same were received in Police Station New Ashok Nagar. The complaints were regarding unauthorized construction by Satish Kumar Gupta at Property No. D-308 and D-311. Information regarding unauthorized construction was sent to MCD. MCD carried out a demolition on 27.12.2019 at D-311 New Ashok Nagar.

(A copy of the police station report dated 05.01.2020, PS. Ashok Nagar, regarding complaints filed by Mr. Jogender Kumar is annexed herewith and marked as Annexure — I.)

s. That statements of following persons were also taken into consideration by SEM on 28.12.2019:

(i) Sh. Sanjay Kumar s/o Sh. Nand Ram r/o A 699 New Ashok Nagar, Delhi.

(ii) Mohd Badrual Hussain s/o Md Seikh Rafiq r/o D-302 New Ashok Nagar, Delhi.

(iii) Mohd. Naushad s/o Mohd. Illiyas r/o D-300, New Ashok Nagar, Delhi.

(iv) Sh. Satish Gupta, s/o Harcharan Gupta r/o D-311 New Ashok Nagar, Delhi

As per record of PS Ashok Nagar, there is no record of the above mentioned persons.

(A copy of the Involvement Certificate issued by PS Ashok Nagar is annexed herewith and marked as Annexure - J). ”

5. Having perused the aforesaid affidavit, it appears that a detailed enquiry has been conducted by the respondents to verify the correctness of the allegations levelled in the aforesaid letter of Smt. Savitri Devi and it has been found that the said allegations are incorrect. Thus, in view of the aforesaid affidavit filed by the high ranking police officer, we see no reason to further monitor this case. Nonetheless, liberty is reserved with Smt. Savitri Devi and her son to take recourse in their individual capacity in accordance with law before the appropriate forum, if at all they are aggrieved by the action of the respondents.

6. With these observations, the writ petition is disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

NOVEMBER 5, 2020

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