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

Date of decision: 6th October, 2020

+ **W.P.(C) 4246/2020 & CM APPLs. 15281-82/2020**

KAILASH PRASAD

..... Petitioner

Through: Mr. Varinder Kumar Sharma.
(M:9810101807)

versus

STATE OF DELHI & ANR.

..... Respondents

Through: Ms. Shobhana Takiar, Advocate for
R-1 (M: 9810962950)
Mr. Chaitanya Gosain, Advocate for
Mr. Rahul Mehra, Standing Counsel
(Criminal).

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been held through video conferencing.
2. The Petitioner has filed the present writ petition, seeking protection against his family members. Vide order dated 16th July, 2020, this Court had recorded as under:

“The present petition has been filed by Mr. Kailash Prasad, who is 78 years of age. He has various grievances against his family members including his wife, sons and daughter.

Ms. Varinder Kumar Sharma, ld. counsel for the Petitioner submits that the family members of the Petitioner are trying to usurp his property and he has made complaints to the police on several occasions i.e. 15th March, 2020, 16th March, 2020, 17th March, 2020, and 30th May, 2020. On

24th June, 2020, the Petitioner has also filed a petition under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2009 before the District Magistrate. Ms. Takiar, ld. counsel submits that the Petitioner has also filed a petition under Section 200 of the CrPC before the Magistrate.

Before proceeding further in this matter, let a copy of this petition be served upon the Standing Counsel (Criminal), GNCTD. The State shall conduct an inquiry into the matter and file a status report before the next date of hearing through the SHO, PS Paschim Vihar. If required, the local SHO would also make enquiries with the family members of the Petitioner and ensure the safety and security of the Petitioner.

List on 6th August, 2020 to await the status report."

3. The grievance of the Petitioner was that he was facing constant threats from his family members and despite repeated complaints to the police no action was being taken. Accordingly, an enquiry was directed to be conducted by the police and status report was directed to be filed. Status report was then filed by the police. As per the said status report, enquiries were conducted and it was reported that the Petitioner is aged about 78 years. He had married twice and has five children. The status report also records that enquiries were made with the Petitioner's family members namely Ms. Chanda Devi (wife), Mr. Roshan Lal (son) and Ms. Sita Devi (daughter) and their statements were recorded. It is stated that all of them assured the police that they would not quarrel with the Petitioner. The said statements were also annexed with the status report. The relevant portion of

the status report is set out below:

“1. That petitioner Kailash Prasad s/o Muneshwar Prasad r/o A 495, Jawalpuri, Delhi aged 78 yrs resides at the above mentioned address and he had married twice, name of first wife is Shankutla Devi (married on 1970) and second wife is Chanda Devi (married on 1978). He has 2 sons namely Motilal & Jawahar Lal and 3 daughters namely Ritu Devi, Geeta Rani & Neelam Kumari out of wedlock with his first wife Shankutla Devi and one son namely Roshan Kumar & one daughter namely Sita Devi with her second wife Chanda Devi who also resides in the above same property. Petitioner has alleged that his second wife and son wanted to transfer the above property on their name (ANNEXURE -I)

2. Moreover it is further submitted that petitioner Kailash Prasad made a complaint vide DD No. 46B dt. 15.03.2020 and on 17.03.2020 same complaint was filed before the Hon'ble CMM, Tis Hazari Courts, Delhi u/s 200 CRPC wherein next date of hearing is fixed for 01.09.2020.

3. During the course of enquiry statements of family members namely Chanda Devi (wife), Roshan Lal (son) and Sita Devi (daughter) were recorded on 31.07.2020 and all of them assured that they would not quarrel with the petitioner and also had not stolen the documents of the property in question [ANNEXURE-II (COLLY)].”

4. On the last date, the Petitioner had sought time to respond to the status report. Today, the Court has heard the counsels for all the parties including the Petitioner and the ld. counsel for Delhi Government. Mr. Chaitanya Gosain, appearing for the State on behalf of Mr. Rahul Mehra, Standing

Counsel (Criminal) submits that in the meantime, the second wife of the Petitioner namely Ms. Chanda Devi, has also filed a complaint against the Petitioner under Section 156(3) CrPC, before the Id. CMM, Tis Hazari Courts and the Id. Magistrate's Court has directed registration of an FIR. He relies upon the order dated 29th September, 2020.

5. Ms. Takiar, Id. counsel appearing on behalf of Delhi Government submits that the petition filed by the Petitioner under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been taken cognizance of and the SDM's investigation report is awaited. She submits that it is only after the receipt and perusal of the report, will notice be issued in that matter. As on date therefore, the following proceedings, filed by the Petitioner continue to remain pending:

- i. Petitioner's complaint under Section 200 CrPC before the Id. CMM, Tis Hazari Courts;
- ii. Petition under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

6. Considering the fact that the Section 200, CrPC complaint was lodged long back in March, 2020, the Id. CMM, Tis Hazari Courts is directed to take up the same within a period of two weeks from today and pass appropriate orders in the said complaint.

7. Insofar as the Section 4 petition under the Senior Citizens Act is concerned, the SDM shall submit his investigation report, within a period of four weeks. The matter shall then be proceeded with, in accordance with law.

8. Considering the nature of the dispute and the fact that the Petitioner, who is a senior citizen, has expressed apprehensions in respect of his safety

and security, the SHO, PS Paschim Vihar shall ensure that he continues to monitor the Petitioner's residence so as to ensure that his peaceful living is not disturbed by his family members.

9. With these observations the present petition and all pending applications are, accordingly, disposed of.

10. Copy of this order be communicated to the Court of Maintenance Tribunal/District Magistrate (Distt. West), Rajouri Garden, Delhi and to the District Judge, Tis Hazari Courts, Delhi. Copy of the order be also communicated to the SHO, PS Paschim Vihar.

PRATHIBA M. SINGH
JUDGE

OCTOBER 6, 2020

dj/A

