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

\+ **W.P.(Crl) No. 1702/2019**

% **Reserved on: 2nd December, 2019**
Pronounced on 6th March, 2020

DIVYA K SINGH ..... Petitioner

Through: Mr. K. Sultan Singh, Sr. Adv. with Mr. V. Hari Pillai and Mr. Manish K. Saryal, Advocates.

versus

UNION OF INDIA & ANR. ..... Respondents

Through: Mr. Neeraj and Mr. Sahaj Garg, Advocates for R-1/UOI.

Mr. R.S.Kundu, ASC for State with SI Harkesh Meena, P.S.Tilak Marg, N.D.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

<u>RAJNISH BHATNAGAR, J.</u>

1. The petitioner has filed the present petition with the following prayer:-

> "Issue an appropriate writ, order or directions to transfer the investigation in FIR No. 204/2016 dated 27.5.2016 from P.S.Tilak Marg, New Delhi to the Central Bureau of Investigation or any other

independent investigating Agency as this Hon'ble Court may deem fit and proper."

2. Brief facts of the case are that on 13.5.2016 a complaint was lodged by the petitioner at P.S.Tilak Marg informing that the complainant's grand-parents owned several properties including H.No. F-146, Malcha Marg, New Delhi where the complainant lives with her mother. Her grand-father passed away on 15.1.2009 and her grandmother passed away on 24.9.2010. Their children including the petitioner's father were embroiled in litigation in respect of the estate left behind by them. According to the petitioner, on 3.5.2016 one R.K.Yadav claiming himself to be the Assistant Commissioner of Police with the Crime Branch came to their house seeking details of the properties and ownership. He coerced the petitioner into providing copies of documents such as Will, Gift Deed and other documents with respect to their properties.

3. On 6.5.2016, the complainant received a notice from the court of learned Civil Judge, Patiala House in respect of civil suit bearing no. 190/2015 titled as "***Smt. Lamkaur Vs. State of NCT of Delhi***". The petitioner and her father visited the court on 13.5.2016 and noticed that a group of people, including three men and two women, were discussing the said case. The petitioner heard them discussing certain documents pertaining to her late

grandmother's properties in Ghaziabad and Noida and saying that due to bad photocopying name of Labh Kaur was read as 'Lam Kaur', because of which, the suit was filed in the name of 'Lam Kaur'. The petitioner took the photographs of all these persons and when the case was called, one of the two women presented herself as 'Lam Kaur' and proposed to move an application for correction of the name. At that time, the petitioner and her father appeared before the court along with their lawyer and brought the true facts in the knowledge of the court and informed that the original 'Labh Kaur' had passed away several years ago i.e in 2010 and plaintiff-lady before the court was an imposter. The matter was passed over and the court directed all the parties to produce their identity cards. When the matter was called again, no one appeared from the side of the plaintiff and the petitioner, on her part, submitted copies of the passport and death certificate of her grandparents namely Late S. Sohan Singh and Late 'Labh Kaur'. The court after taking serious view in the matter directed SHO, P.S. Chankyapuri to submit a report in this regard. On 27.5.2016 which was the next date of hearing the concerned Judge directed the police officials from P.S.Tilak Marg to register an appropriate case if any impersonation or cognizable offence was made out. Upon inquiry, it was revealed that the said 'Lam Kaur' was actually one Krishna Wanti and was impersonating as the petitioner's grandmother. Accordingly, FIR bearing no.

204/2016 under Section 420/419/120-B IPC was register at P.S.Tilak Marg.

4. After the investigation in this case, charge sheet was filed by the Investigating Officer thereby naming Krishnawanti, Mohd. Zeeshan, Bharat Bhushan, Baljeet Singh and Pooja Sharma while exonerating accused Dharmender and Mohd. Javed on the ground of insufficient evidence.

5. Later on, a supplementary charge-sheet was filed by the IO qua one Sushil Bansal under Sections 420/419/467/468/471/120-B IPC. The petitioner being unsatisfied with the manner of investigation, pointed out various aspects to the higher officials, which were not investigated into, or conveniently ignored by the officials of P.S.Tilak Marg and/and or P.S.Chankyapuri on account of which the petitioner and her aged parents were constantly living a life of threat and apprehension. On 5.9.2016, the petitioner lodged a complaint with P.S Tilak Marg against some unknown persons who came to her house as prospective buyers for the Malcha Marg property and had threatened petitioner and her family members for selling the property. On 8.9.2016, petitioner lodged a complaint with P.S.Tilak Marg informing about the visit of one Sunil Kumar who had extended threats to the petitioner and phone number of said Sunil Kumar was also shared with the police. Petitioner has also

lodged complaint against one Anup C who had threatened them to sell the property to him and again on 19.9.2016, a complaint was lodged against one M.L.Khurana who had visited the family of the petitioner seeking to buy their property. On 20.9.2016, petitioner again approached the police authorities as one Kanishk Sharma visited the petitioner's property claiming to be in possession of various property documents belonging to the petitioner's family. The petitioner also informed the police officials about the repeated visits by various obnoxious persons who under the guise of the prospective buyers of the petitioner's family properties extended threats to them. On 8.10.2016, petitioner again lodged a complaint with P.S.Tilak Marg informing about the visit of one Subhash Chand Yadav who claimed to be in possession of Aadhar card and PAN card in the name of 'Lam Kaur' with the petitioner's address mentioned therein and wanted to deal in the property. The police was urged to investigate the role of said Sardar Singh Yadav and Subhash Chand Yadav. Unsatisfied with the police the petitioner filed an application under Section 156(3) Cr.P.C seeking directions for registration of FIR. According to the petitioner, another person impersonating as 'LamKaur' moved an application before the Revenue Department for "*Surviving Member Certificate*". According to the petitioner, one field officer Imran Ali from Revenue Department visited the petitioner's house to verify the application details of fake ‘Lam Kaur’. The petitioner informed the Field Officer that it was a forged application and was asked to cancel the application.

6. In the month of October, 2018, a forged SBI ATM Card also arrived at petitioner’s house in the name of ‘Lam Kaur’. Another forged Aadhar Card was issued by UIDAI to an unknown ‘Lam Kaur’ which was received by the petitioner at her wrong address. Though the investigating agency filed another supplementary charge sheet against accused Jaswinder Kaur but left out Rashid, Riyaz Ahmed and Babar on the ground of lack of sufficient evidence against them even though specific roles had been attributed to them during the course of disclosure statements of co-accused.

7. On 14.1.2019 according to the petitioner, some person named Ashish along with three other persons namely Brajmohan, Rajpal, and Sunil Kumar came to the petitioner’s residence at Malcha Marg with copies of some forged documents purported to be the land ownership documents of Ghaziabad in the name of ‘Lam Kaur’. The complaint in this regard was again filed with P.S.Chanakyapuri. According to the petitioner Aadhar Card bearing no. 3734 6838 2829 was wrongly issued by the UIDAI to an unknown impersonator “Laamkour. Further a cheque book was also issued in joint name of “Labhkaur Sohan

Singh" by Bandhan Bank, Noida Branch to the petitioner's address. According to the petitioner, again on 5.4.2019, one Abhishek Singh Chambyal claiming to be a prospective buyer visited her house. According to the petitioner, since the investigation is not being properly conducted by Delhi police , she is seeking transfer of investigation in FIR No. 204/2016 dated 27.5.2016 from P.S.Tilak Marg to Central Bureau of Investigation or any other independent investigating agency.

8. State has filed the latest status report.

9. As per the status report, during the course of investigation, accused Krishnawanti (impersonator) was arrested in the present case and during interrogation she disclosed that some person lured her to do so and they assured to her that they would give Rs.10,00,000/-. She also disclosed that she can help to catch one of them namely Zeeshan Ashraf. He was modified her Aadhar Card in the name of 'Lam Kaur', and thereafter she filed a mutation in the Hon'ble Court of Ms. Jasjeet Kaur, CJ, Patiala House Court with using fake identity.

10. At the instance of the accused Krishnawanti, Mohd. Zeeshan Ashraf was arrested from Patel Nagar on 27.5.2016. Accused Zeeshan Ashraf was interrogated in detail and he disclosed that in the month of May, 2015 he met Riyazad and Dr. Mohd. Rashid at Ghaziabad Tehsil and they informed him that

one property is in village Chjaarasi and Kannawanti, Distt. Ghaziabad and owner of said property is 'Lam Kaur' and one lady namely Krishna Wanti is ready to be 'Lam Kaur'. They also stated that one more property is in Malcha Marg, New Delhi property bearing no.F-146, Malcha Marg, New Delhi in the name of 'Lam Kaur'. During the course of investigation, Aadhar Card of 'Lam Kaur' was got verified from Adhar card office. It is found that the Adhar card No.541343145687 was issued in the name of Krishna Wanti W/o Sh. Girdhari lal R/o A-128/4 Dilshad Colony East Delhi but accused moved an application for correcting name and address with the help of accused Mohd. Zeeshan. On the basis of application along with supporting documents i.e. photocopy of PAN Card, electric Bill, the name and address of Lam Kaur W/o Sh. Girdhari Lal R/o F-146 Malcha Marg, Chankyapuri New Delhi was changed in lieu of Krishna Wanti W/o Sh. Girdhari Lal R/o A-128/4 Dilshad Colony East Delhi.

11. During the investigation, KYC of account No. (00000100006107) Bank of Baroda of Lam Kaur along with transaction details were also obtained. As per KYC form, the bank account of 'Lam Kaur' was opened on the basis of Election Card No. ELJ001806.

12. As per status report, during the investigation, PAN card No. ANGPL4397N of 'Lam Kaur' was got made through NDSL Technology, Trust & Roach on the basis of Driving License of herself. Krishna Wanti had executed agreement for sale of property bearing no.F-146, Malcha Marg, Chankaya Puri, New Delhi as 'Lam Kaur' in the name of Susheel Bansal and him with consideration amount of Rs.12 crore and Krishna Wanti received Rs.10 lac cash and one postdated cheque of Rs.One crore and ten lac (1,10,00,000/-) as earnest money. Accused Bharat Bhushan who is the real son of accused Krishna Wanti was arrested on 8.6.2016.

13. During the course of investigation, accused Sushil Bansal who executed agreement to sell of questioned property with accused Krishna Wanti was arrested on 07.09.2016 and it came on record that he executed agreement to sell of said property with consideration amount of Rs.12 Crore and he had paid 10 lakh cash and amount of Rs.1,10,00,000/- in the form of cheque of his saving account No. 00084219100610 8 of Oriental Bank of Commerce. During investigation, on the scrutiny of bank statement of accused Susheel Bansal it came to notice that since 01.01.2015, he had no balance more than Rs.2000/- in the said account. It clearly shows that he was involved in the whole episode of conspiracy. He also tried to sell the said property to one Nageshwar Paandey.

14. Accused Jasvinder Kaur was declared as PO by the Court on 14.09.2018. During investigation, accused Jasvinder Kaur has been arrested on 17.10.2018 in the present case. During the course of investigation accused Jasvinder Kaur disclosed that she contacted Nitin Kumar who is grandson of Krishna Wanti. She was well known to the family member of Nitin Kumar, Zeeshan Ashraf and Bharat Bhushan lured her to do signatures on mutation application and GPA as witness. They assured her that they will give commission after selling of the property.

15. As per the case of the prosecution, accused Baljeet Singh was interrogated in the present case. He stated that accused Bharat Bhushan is his friend and he gave a false affidavit in favour of accused Krishna Wanti on the request of Bharat Bhushan. Accused Pooja (daughter-in-law of accused Krishna Wanti) who came in court with her mother-in-law Krishna Wanti, knowingly that her mother in law is not 'Lam Kaur'. Accused Pooja was kept in Column No. 11 in charge-sheet without arrest.

16. During the course of investigation, the fake documents i.e Agreement to Sell, Affidavits, GPA, Indemnity bond have been recovered in original. Specimen handwriting and admitted handwriting of accused persons have been obtained and same were sent to RFSL Chankyapuri for expert handwriting opinion. RFSL result was received and questioned handwriting

have been matched with handwriting of accused persons i.e. Krishna Wanti, Bharat Bhushan, Zeesan Asraf, Susheel Bansal, Jaswinder Kaur and Baljeet Singh. After completion of investigation, charge-sheet was filed against above said accused persons in the court.

17. It is submitted by learned APP for the State that the charge sheet has already been filed in this case and the investigation has been impartial and duly conducted by the Delhi police which has investigated this case from all angles and charge sheet was filed considering all the submissions and complaints made by the petitioner. He therefore submits that since the charge sheet has already been filed, if the petitioner is still aggrieved on some aspects of investigation, she can still an application under Section 173(8) Cr.P.C before the learned MM, however, this is not the stage of transfer of investigation to any other independent agency.

18. I have perused the status report filed by the State. The arrests have been made in this case against whom the evidence was found, however, accused Dharmendra Kumar, Mohd. Javed, Rasid, Babar and Riaz, were kept in column no. 12 in the charge sheet as suspects, and if in case any evidence is found against them, the Magistrate can summon them as accused persons.

19. In these circumstances, in my opinion, there is no need to transfer of the investigation of this case to any other agency as prayed by the petitioner.

20. The petition is therefore dismissed and disposed of accordingly.

RAJNISH BHATNAGAR, J

MARCH 06, 2020/ib