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- * **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 17th August, 2021
- + **W.P.(C) 2211/2021 & CM APPL. 16337/2021**
AMIT MEHARIA Petitioner
Through: Mr. Sachin Datta, Sr. Advocate with
Mr. Abinash Aggarwal, Advocate
versus
COMMISSIONER OF POLICE & ORS. Respondents
Through: Ms. Tara Narula with Ms. Aparajita
Sinha, Advs. for R-1 to 3.
- 21 WITH
+ **W.P.(C) 2246/2021 & CM APPL. 16335/2021**
AMIT MEHARIA Petitioner
Through: Mr. Sachin Datta, Sr. Advocate with
Mr. Abinash Aggarwal, Advocate
versus
COMMISSIONER OF POLICE & ORS. Respondents
Through: Ms. Tara Narula with Ms. Aparajita
Sinha, Advs. for R-1 to 3.
- 22 WITH
+ **W.P.(C) 2247/2021 & CM APPL. 16333/2021**
AMIT MEHARIA Petitioner
Through: Mr. Sachin Datta, Sr. Advocate with
Mr. Abinash Aggarwal, Advocate
versus
COMMISSIONER OF POLICE & ORS. Respondents
Through: Ms. Tara Narula with Ms. Aparajita
Sinha, Advs. for R-1 to 3.
- 23 AND
+ **W.P.(C) 2249/2021 & CM APPL. 16334/2021**
AMIT MEHARIA Petitioner
Through: Mr. Sachin Datta, Sr. Advocate with
Mr. Abinash Aggarwal, Advocate
versus
COMMISSIONER OF POLICE & ORS. Respondents
Through: Ms. Tara Narula with Ms. Aparajita
Sinha, Advs. for R-1 to 3.

**CORAM:
JUSTICE PRATHIBA M. SINGH**

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The present four petitions have been filed by the Petitioner challenging the impugned order dated 5th January, 2021 passed in Second Appeal by the Central Information Commission (*hereinafter 'CIC'*) in four separate cases arising out of four applications under the Right to Information Act, 2005 (*hereinafter "RTI Act, 2005"*). The said RTI applications dated 28th June, 2018 were filed by the Petitioner herein, seeking information relating to the complaints lodged by his estranged wife, Ms. Abhilasha Malhotra, impleaded as Respondent No.4 herein, against her previous two husbands and their family members.
3. The Petitioner was married to Respondent No.4 Ms. Abhilasha Malhotra on 10th December, 2017. Various disputes arose between the parties in their matrimonial life leading to various complaints and proceedings. The following proceedings are stated to be pending between the Petitioner and Respondent No.4.
 - i) A matrimonial suit being ***Mat. Suit. No. 05/2019 (formerly numbered as Mat. Suit. No. 1759/2018)*** was filed by the Petitioner before the District Judge, Alipore, Kolkata seeking a decree of nullity of marriage on the ground that the marriage between the Petitioner and Respondent No.4 was voidable as being violative of Section 25(iii) of the Special Marriage Act, 1954 (*hereinafter "SMA, 1954"*) as the Petitioner's consent to the marriage was obtained by fraud.
 - ii) A criminal complaint filed by Respondent No.4 against the

Petitioner being ***FIR No.78/2018*** under Section 498A/406/377/34 of the Indian Penal Code, 1860 pending before the Mahila Court, Dwarka, Delhi, where the Charge Sheet has been filed against the Petitioner and his family members.

iii) A General Diary entry dated 09th March 2018 lodged by the father of the Petitioner at the Alipore Police Station, Kolkata in respect of the matrimonial disputes between the Petitioner and Respondent No.4.

4. The present petitions arise out of the RTI query which was filed by the Petitioner under Section 6(1) of the RTI Act, 2005.

I. The particulars of the information sought by the Petitioner under the first RTI application are set out hereunder:

“(b) Particulars of information required

(i) Details of information required :

*a. **Whether any complaint was lodged by Abhilasha Malhotra, resident of 361, Mandakini Enclave, Alaknanda, New Delhi 110019. P. S. Chittaranjan Park under Section 154 Cr. P.C and Section 498A/406/377/34 Indian Penal Code?***

*b. **Steps undertaken pursuant to the complaint***

*c. **Status of the complaint***

*d. **Copy of the investigation report***

(ii) Period for which information asked: January, 2013 to December, 2015 (both months inclusive)

*(iii) **Other details”***

II. The particulars of the information sought by the Petitioner under the second RTI application are set out hereunder:

“(b) Particulars of information required

*(i) **Details of information required: Whether any complaint has been lodged before CAW, Delhi by Abhilasha Malhotra, resident of 361, Mandakini Enclave, Alaknanda, New Delhi 110019. P. S. Chittaranjan Park.***

Kindly provide following information

a. Copy of the complaint lodged by Abhilasha Malhotra.

b. Copy of the office order for the enquiry in this regard.

c. Name of the members of the enquiry committee.

d. Date of Enquiry.

e. Copy of the enquiry report.

f. Final decision of the competent authority

(ii) Period for which information asked: January, 2013 to December, 2015 (both months inclusive).

(iii) Other details”

III. The particulars of the information sought by the Petitioner under the third RTI application are set out hereunder:

“(b) Particulars of information required

*(i) **Details of information required: Please refer to complaint lodged on 04th January, 2016 by Abhilasha Malhotra (Wife) resident of 361, Mandakini Enclave, Alaknanda, New Delhi 110019 P.S. Chittaranjan Park against Pranav Kumar (Husband), resident of 309,***

*Prime Lavender Apartment, Panathur Road,
Kadubeesanahalli, Hali Police Station,
Bangalore 560087 AND Flat No.101, Om Sai
Diamond, 6th ACRS, Rajshree L/O,
Munnekolala, Marathahalli, Bangalore-
560037 before CAW, Delhi.*

Kindly provide following information

- a. Copy of the complaint lodged by Abhilasha Malhotra*
- b. Copy of the office order for the enquiry in this regard*
- c. Name of the members of the enquiry committee,*
- d. Date of Enquiry.*
- e. Copy of the enquiry report.*
- f. Final decision of the competent authority*

(ii) Period for which information asked: January, 2016 till date

(iii) Other details”

IV. The particulars of the information sought by the Petitioner under the fourth RTI application are set out hereunder:

“(b) Particulars of information required

(i) Details of information required:

(a) A copy of the complaint lodged on 18th May, 2016 by Abhilasha Malhotra (Wife) - 361, Mandakini Enclave, Alaknanda, New Delhi 110019. P.S. Chittaranjan Park against Pranav Kumar (Husband) - 309, Prime Lavender Apartment, Panathur Road, Kadubeesanahalli, Hali Police Station, Bangalore 560087 AND Flat No.101, Om Sai Diamond, 6th ACRS, Rajshree L/O,

Munnekolala, Marathahalli, Bangalore-560037 before CAW, Delhi under Section 154 Cr.PC and Section 498A/406/377/34 Indian Penal Code being FIR No. 81/2016.

b. Steps undertaken pursuant to the complaint.

c. Status of the complaint.

d. Copy of the investigation report.

(ii) Period for which information asked: May, 2016 till date.

(iii) Other details.”

5. The CPIO, Special Police Unit for Women and Children (*hereinafter* “SPUWAC”), Nanakpura, New Delhi, by its Reply dated 12th July 2018 rejected the request on the ground that the disclosure of the said information would be barred under Section 8(1)(j) of the RTI Act, 2005. The relevant extract from the CPIO’s Reply is set out below:

Copy of requisite documents can’t be provided as per section 8(1) (j) of RTI Act, 2005 as disclosure of same would cause unwarranted invasion of the privacy of the individual and there is no larger public interest in disclosing the information.

6. The Petitioner filed the First Appeal under the RTI Act, 2005 before the Respondent No.3/First Appellate Authority, SPUWAC which, vide order dated 12th September 2018, again rejected the said request with the following findings:

“I have carefully considered the submission of the appellant made in his appeal dated 08.08.2018 and PIO’s order dated 12.07.2018.

I, therefore, do not find any reason to interfere with the reply given by the PIO/SPUWAC as PIO/SPUWAC has provided the correct information on Point raised in the RTI application as per available record in SPUWAC, within the stipulated period of RTI Act-2005. It is submitted that appellant is third party and information sought by appellant can't be provided in view of Sec. 8(1) (j) of RTI Act as disclosure of same would cause unwarranted invasion of the privacy of the individual and there is no larger public interest in disclosing the information. Moreover, reply given by the PIO/SPUWAC was complete and sufficient.

The appeal is hereby disposed off..."

7. Thereafter, the Petitioner filed a Second Appeal before the CIC which was rejected by the impugned order dated 5th January 2021. During the proceedings before the First Appellate Authority, a short status report was also filed by the Delhi Police wherein the details of the first, second and third complaints of the Respondent No.4 filed against both her ex-husbands and the present husband i.e., the Petitioner, were revealed before the Appellate Authority. In the impugned order, which was passed on 5th January, 2021, the Second Appellate Authority/CIC upheld that the information sought was covered under Section 8(1)(j) of the RTI Act, 2005. However, it did direct the Respondent therein to provide the said status report to the Petitioner. The operative portion of the impugned order is set out below:

"Upon hearing the averments of both parties and after perusal of the detailed submissions filed by the Appellant, the commission finds no infirmity with the

view of the Respondent in denial of information invoking Section 8(1)(j) of the RTI Act. During the course of hearing, the Appellant raised concerns that his estranged wife may file documents to his disadvantage and hence he wanted to prepare his defence through the documents sought in RTI applications. He is reminded that once the matter is before the Trial Court, he shall get ample opportunity to seek from the court, all necessary documents used against him, to defend his case.

Under the circumstances, the Commission hereby directs the Respondent to provide a comprehensive status report about the complaints filed by Smt. Abhilasha Malhotra before the Delhi Police, upon submitting the matter before the concerned Court. The Respondent shall provide this status report to the Appellant within three weeks of receipt of this order and the Respondent shall submit a compliance report in this regard before the Commission by 31.01.2021. It is made clear that non-adherence of these directions shall attract penal action as per law.

The above four appeals are on a common subject matter and hence are decided by a common order.”

8. The submission on behalf of the Petitioner in this case is that the Respondent No.4 has already undergone two marriages and the third marriage was with the Petitioner. According to Mr. Datta, learned senior counsel for Petitioner, the Respondent No.4 has indulged in fraud against the Petitioner inasmuch as almost identical allegations have been levelled by Respondent No.4 against all three husbands. Thus, in order to establish his case as regards the voidability of the marriage on the ground of fraud under Section 25(iii) of the Special Marriage Act, 1954, the details of the previous two marriages, the complaints lodged thereunder, the FIR, if any, and the

settlements entered into therein would be extremely relevant. He further submits that a perusal of Section 8(1)(j) of the RTI Act, 2005 would show that if the information has no relation to any public activity or it is necessary to disclose it in the larger public interest, the said information should be disclosed.

9. Mr. Datta, Id. Senior Counsel further submits that there would be no invasion of privacy inasmuch as the wife is well-aware of all the allegations she had made, and therefore, the fact that the said allegations would come out in public domain, or would be revealed to the Petitioner for use in other proceedings, would not be violative of her privacy. Finally, he submits that the stand of the Respondent that FIRs are not in public domain is belied by the fact that the **FIR No. 78/2018** which is filed by the Respondent No.4 against the Petitioner himself, is easily downloadable from the Delhi Police website, whereas the other FIRs are not being revealed to him. This, according to Mr. Datta, clearly shows that the exception of the privacy would not apply inasmuch as the allegations are very similar to each other. He also relies upon the Judgment of the Supreme Court in **CIC vs. High Court of Gujarat [(2020) 4 SCC 702]** to argue that the second FIR being **FIR No. 81/2016** against the second husband and his family members was the subject matter of a quashing petition before the Delhi High Court, and thus, it is a part of the judicial records. Therefore, he submits that the Petitioner should be permitted to avail of the same.

10. On the other hand, Ms. Tara Narula, Id. counsel appearing for the Respondent/GNCTD, submits that the information which is sought is sensitive information as the offences which are alleged against the husbands are both under Section 498A and Section 377 of IPC, which are considered

as sensitive information and are also related to alleged sexual offences. Thus, these FIRs ought not to be published in public domain. She submits that if the FIR against the Petitioner is in the public domain, the same could only be an inadvertent error. She further submits that the status report has already been filed in a sealed cover before the Court which would reveal that the first complaint filed against the first husband has already been settled, and in fact, there was no FIR which was registered pursuant to the said complaint. Insofar as the second complaint against the second husband is concerned, the same was registered as **FIR No. 81/2016**. However, the same was also settled in the mediation proceedings and the said FIR was also quashed by the Delhi High Court, vide Order dated 24th February 2020 in **Crl. M.C. No.3106/2018**.

11. Ms. Tara Narula, Id. Counsel submits that the events which transpired during the mediation proceedings and the mediator's reports, especially in matrimonial proceedings, are all confidential in nature and cannot be disclosed to any third party. Finally, she submits that under Section 91 of the Code of Criminal Procedure, 1973 in respect of the criminal case pending before the Mahila Court, Dwarka, Delhi, as also in the civil suit which is stated to have been filed by the Petitioner, the Petitioner has remedies before the respective fora to seek summoning of the relevant records from the Delhi Police, and the RTI route is not the correct route which should be adopted by the Petitioner. Specific reliance is placed upon the judgment of the Supreme Court in **Registrar, Supreme Court v. R.S. Misra [2017 SCC OnLine Del 11811]** where the Supreme Court has clearly observed that if the documents can be obtained in other proceedings, and the intention is not to achieve transparency, then the provisions of the RTI Act cannot be invoked.

12. Ms. Narula, Id. Counsel for Respondent also submits that the Petitioner has already availed of another writ petition being ***W.P. Crl. 1046/2021*** in respect of the investigation and the charge sheet which has now been sought under the RTI application. The said writ was disposed of by directing the Petitioner to raise all issues before the Trial Court. The relevant portion of the said order dated 02nd June 2021 is set out below:

“4. Though, the complainant is not a party in the present writ petition, however, I hereby dispose of the present petition by giving liberty to the petitioner to raise all issues before the Trial Court and take steps as per law.”

13. The present case is a peculiar case where the Petitioner is the third husband of the Respondent No.4. A civil suit being ***Mat. Suit No. 05 of 2019*** titled ***Amit Meharia v. Abhilasha Malhotra & Ors.***, which was filed by the Petitioner under the provisions of Section 25(iii) of the SMA, 1954 is stated to have been dismissed by the Alipore Court vide Judgment dated 10th December, 2020, and according to Mr. Datta, Id. Counsel, one of the reasons for the rejection was the non-availability of the information and particulars relating to the fraud. An appeal against the said suit is stated to be pending before the Calcutta High Court being ***FAT No. 330 of 2020*** titled ***Amit Meharia v. Abhilasha Malhotra & Ors.*** Insofar as the criminal complaint filed by Respondent No.4 is concerned, the same is also pending trial before the Mahila Court, Dwarka, Delhi. It is in these proceedings that the Petitioner claims to be requiring the information sought.

14. Section 8(1)(j) of the RTI Act reads as under:-

“(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or

which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”

15. The Court has perused the status report, the complaints and other annexures filed along with the status report which shows that the first complaint was filed by Respondent No. 4 against her first husband which was amicably resolved by the parties, second complaint lodged against the second husband which was converted into **FIR No. 81/2016** and Charge Sheet dated 24th December 2018 and thereafter quashed by the Delhi High Court vide Order dated 24th February 2020 in **Crl. M.C. No.3106/2018**, and finally, a third complaint against the present Petitioner which was converted into **FIR No. 78/2018** and Charge Sheet dated 08th January 2021.

16. A perusal of all these FIRs and complaints therein would show that allegations have been made by the Respondent No. 4 against both her ex-husbands as also the in-laws etc. Thus, the privacy which is to be considered in this case is not just the privacy of Respondent No.4 alone, but in fact, that of the said husbands against whom complaints were filed as well as the in-laws etc. The personal information in this case does not relate only to the Petitioner or Respondent No.4 but also to those other persons who were the subject matter of the said complaints and FIR. Thus, the exception under Section 8(1)(j) of the RTI Act, 2005 would clearly apply in the present case.

17. Insofar as the two pending proceedings between the Petitioner and

Respondent no.4 and the requirement of the information for the proper adjudication of the said proceedings are concerned, the Petitioner has already been given two status reports;

- The first status report was given to the Petitioner during the RTI proceedings;
- The second status report was filed before this Court openly;

18. The first and the second report above, clearly set out the basic facts relating to the two earlier marriages. The same are not repeated herein for the sake of protecting the privacy of all the parties involved. A third status report was filed in a sealed cover, along with several documents, before this Court. Such documents which are referred to therein and needed, can be summoned or sought, before the courts where the proceedings are pending. The Petitioner has his own remedies which he can avail, in accordance with law, both before the Calcutta High Court, for discovery/interrogatories etc. Even in the criminal case, which is pending before the Mahila Court, Dwarka, Delhi, there are remedies under Section 91 or Section 173 of the Code of Criminal Procedure, 1973. In this case, the Investigating Officer can also produce the documents, produced before this Court in a sealed cover, as the same may be relevant. The court also has the power to summon these documents from the police authorities.

19. The Supreme Court has clearly observed in ***Registrar, Supreme Court v. R.S. Misra [2017 SCC OnLine Del 11811]*** that the provisions of the RTI Act are for achieving transparency and not for making available information to be used in other proceedings, especially if there are other remedies available to the persons who seek the information, under another statute. The

relevant extract reads as under:

“xxx xxx xxx

53. The preamble shows that the RTI Act has been enacted only to make accessible to the citizens the information with the public authorities which hitherto was not available. Neither the Preamble of the RTI Act nor does any other provision of the Act disclose the purport of the RTI Act to provide additional mode for accessing information with the public authorities which has already formulated rules and schemes for making the said information available. Certainly if the said rules, regulations and schemes do not provide for accessing information which has been made accessible under the RTI Act, resort can be had to the provision of the RTI Act but not to duplicate or to multiply the modes of accessing information.

54. This Court is further of the opinion that if any information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to as there is absence of the very basis for invoking the provisions of RTI Act, namely, lack of transparency. In other words, the provisions of RTI Act are not to be resorted to if the same are not actuated to achieve transparency.”

20. Thus, the Petitioner in the present case is already in possession of the status report which was directed to be provided to the Petitioner by the Second Appellate Authority/CIC. The said status report is on record and reveals the details of all the earlier proceedings without going into the particulars and allegations which were made against the said third parties. This status report, combined with the remedies which are available to the Petitioner, clearly show that the Petitioner is not remediless in respect of the

information which is sought. The Petitioner can clearly avail of his remedies in accordance with law, both before the Calcutta High Court, as also before the Mahila Court, Dwarka, under Section 91 and Section 173 of the Code of Criminal Procedure, 1973.

21. Accordingly, this Court is of the opinion that the impugned order does not warrant any interference inasmuch as the information sought is governed by Section 8(1)(j) of the RTI Act, 2005. However, the fact that these petitions have been rejected would not in any manner adversely affect the Petitioner's rights to seek his remedies in accordance with law, both before the Calcutta High Court and before the Mahila Court, Dwarka, Delhi where the criminal complaint filed by Respondent No.4 against the Petitioner, is pending.

22. The Petitioner is permitted to place the open status reports, which have been provided by the Delhi Police, before the said appropriate fora and seek summoning of the remaining relevant records which shall then be considered by the said courts in accordance with law. The status report filed before this Court, in a sealed cover along with annexures, is directed to be returned to the Counsel for the Delhi Police, by the Court Master. The same shall not constitute a part of the judicial record.

23. Needless to add, the observations in this order would not affect any of the said remedies available to the Petitioner before the respective fora.

24. With these observations, the present petition, with all pending applications, is disposed of with no orders as to costs.

PRATHIBA M. SINGH
JUDGE

AUGUST 17, 2021/mw/mr/AD

(corrected & printed 23rd August 2021)