

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

Date of decision: 16<sup>th</sup> NOVEMBER, 2021

IN THE MATTER OF:

+ **W.P.(CRL) 1891/2021**

SANJAY

..... Petitioner

Through: Mr. Jai Subhash Thakur, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Ms. Richa Kapoor, ASC for the State  
with SI Satender.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**SUBRAMONIUM PRASAD, J.**

1. The petitioner has filed the instant petition under Article 226 of the Constitution of India with the following prayers:

*"(a) Direct the SHO of P.S. Burari to provide security to the petitioner.*

*(b) Direct the SHO of P.S. Burari to add appropriate section of offences committed by the accused persons in under Section 308 IPC.*

*(c) Pass any other and further order as this Hon'ble High Court may deem fit, just and proper in the present facts and circumstances of the case."*

2. The factual matrix of the present case is as follows:-

- a. It is stated that the Petitioner's uncle Satbir Singh has passed away. It is stated that the complainant's aunt Sumitra/wife of Satbir Singh passed away in April 2021. They did not have any children.

- b. It is stated that the property of Satbir Singh and Sumitra was to be apportioned amongst their heirs.
  - c. It is further stated that on 13.08.2021 the Petitioner visited the home of the other heirs, namely - Narendra and Archana (accused) for apportioning the property of Satbir Singh and Sumitra.
  - d. It is further stated that the Petitioner visited the house of the accused where Sushila and Sanjana were also present. It is stated that Narendra, Archana, Sushila and Sanjana started abusing and threatening the petitioner and the petitioner was beaten by Narendra with rods/sticks due to which the petitioner started bleeding and then the petitioner was taken to Aruna Asaf Ali Hospital in a PCR Van.
3. The petitioner filed a complaint on 24.09.2021 to the D.C.P. North District, Civil Lines, Delhi stating that he has been receiving threats from the accused and that he suffered a head injury and has got four stitches. It is stated that the petitioner informed the Investigating officer about the same but no action was taken by the Police. He also stated that the petitioner represented to the Police that proper sections were to be added in the FIR but the same was not acceded to. Hence the Petitioner has filed the present petition.
4. Mr. Jai Subhash Thakur, Ld. Counsel for the Petitioner submitted that the petitioner has been beaten by the accused and the petitioner has suffered head injuries. He further submitted that on 14.08.2021, the petitioner has given a written complainant against the accused persons. Subsequently, FIR No.705/2021 was registered on 16.08.2021 but appropriate Sections have

not been added. He further submitted that due to this the accused has been roaming freely and is threatening the petitioner. It was further submitted that the accused manipulated the hospital records to show that the injuries were simple in nature. The learned counsel for the petitioner, therefore, prays that adequate security be provided to the petitioner and offence under Section 308 IPC be added in the FIR against the accused.

5. Ms. Richa Kapoor, learned ASC for the State, opposed the submissions of the learned counsel for the Petitioner. She stated that the petition is not maintainable. She states that this is a family dispute and the case is being investigated.

6. Heard Mr. Jai Subhash Thakur, learned counsel for the petitioner and Ms. Richa Kapoor, learned ASC for the State and perused the material on record.

7. It is trite law that after the completion of investigation a report under Section 173 Cr.P.C. is filed with all the documents and it is for the Magistrate to look into the material placed before her and frame charges accordingly. It is well settled that in case the complainant has any further material, he can assist the prosecution in bringing the material on record. It is also open to the petitioner to file a protest petition in case the investigation has not been conducted properly. Merely, by relying on the *ipse dixit* of the petitioner, this Court is not inclined to interfere with the investigation or direct the addition of Section 308 IPC in the FIR.

8. The Supreme Court in Reeta Nag v. State of West Bengal & Ors., (2009) 9 SCC 129, has observed as under :-

***"25. What emerges from the abovementioned decisions of this Court is that once a chargesheet is filed under Section 173(2) Cr.P.C. and either charge is framed or the accused are discharged, the Magistrate may, on the basis of a protest petition, take cognizance of the offence complained of or on the application made by the investigating authorities permit further investigation under Section 173(8)."***  
(emphasis supplied)

9. The material on record discloses that the present dispute is *prima facie* a property dispute inter se the relatives. Needless to state that it is the duty of Police to provide adequate security to the petitioner. The State is directed to provide the mobile numbers of the S.H.O. and the Beat officials of Police Station Burari to the Petitioner. In case there is any complaint by the petitioner, the Police is directed to take appropriate steps in accordance with law.

10. With these observations, the petition is disposed of along with the pending application(s), if any.

**SUBRAMONIUM PRASAD, J**

**NOVEMBER 16, 2021**

*Rahul*