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

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***Reserved on: 21.09.2023
Pronounced on: 31.10.2023***+ **W.P.(CRL) 45/2023 & CRL.M.A. 457/2023**

DEEPALI CHHABRA

..... Petitioner

Through: Mr. N. Hariharan, Sr.
Advocate along with Mr.
Siddarth S. Yadav, Ms. Punya
Rekha Angara and Mr. Mueed
Shah, Advocates

versus

STATE & ANR.

.... Respondents

Through: Ms. Rupali Bandhopadhyia,
ASC for the State.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of petitioner seeking issuance of writ/order/directions in the nature of certiorari for quashing of the order dated 23.12.2022 passed by the learned Metropolitan Magistrate, South West, Dwarka Court, Delhi in Criminal Case No.



28372/2018 arising out of FIR bearing no. 246/2014, registered at Police Station Janakpuri, Delhi for the offence punishable under Sections 420/34 of the Indian Penal Code, 1860 ('IPC').

2. Brief facts of the present case, as disclosed in the petition, are that on 24.09.2022, the learned Trial Court was pleased to issue Non-Bailable Warrants against accused/Respondent no. 2 Anju Negi through SHO concerned for 22.10.2022. The petitioner herein, who is posted as Sub-Inspector at Police Station Janakpuri, was on long medical leave for 20 days, but due to a shortage of staff at the police station, she had joined her duty on 11.10.2022. The Non-Bailable Warrants in question were marked to the petitioner for execution on 15.10.2022 by the SHO concerned. Since the area of the residence of the accused falls within North-East District, therefore, to locate the address, the petitioner had contacted the staff of 5B unit and had requested them to locate and verify the address so that Non-Bailable Warrants issued by the learned Trial Court can be executed. Thereafter, ASI Amar Singh, of Unit 5B had told her that they were trying to locate the address of the accused which apparently was an incomplete address. Later, it was informed by Constable Amit of 5B Unit that they had located the address where the mother of the accused had met them and had told them that the accused Anju Negi had left home a few years back and had no contact with them. They had also refused to give any formal statement to that effect. On receiving such information from the staff of Unit 5B, the petitioner had prepared the report dated 22.10.2022, which was forwarded to the learned Trial Court. It is stated that inadvertently the name of the



person who had visited to check/locate the address of respondent no. 2 was wrongly mentioned as Head Constable Harvinder (Staff of Beat No. 5 Janakpuri) instead of Constable Amit, Belt No. 1075/W from 5B staff. The said Constable Amit had shared the Google pin when he had visited the area of Dayal Pur to locate the address of accused Anju Negi on 21.10.2022 and the copy of the screenshot was placed before the learned Trial Court. It is stated, therefore, based on information supplied by staff of 5B unit, which was believed to be true, the petitioner had prepared a report dated 22.10.2022 of unexecuted warrants. It is stated that the mother of respondent no. 2 had deliberately avoided informing the whereabouts of the accused/respondent no.2 to Constable Amit. However, thereafter, she had informed the accused about the pendency of proceedings, and thus, on the next date of hearing which was fixed for 22.10.2022, respondent no. 2 had appeared before the learned Trial Court. On 22.10.2022, the learned Trial Court after perusing the report was pleased to issue notice against Head Constable Harvinder to appear before it. On 03.12.2022. the learned Trial Court had recorded the statement of Head Constable Harvinder wherein he had stated that he had not visited the address of respondent no. 2 and the report had been prepared by the petitioner. Thereafter, the learned Trial Court was pleased to issue notice under Section 60 of the Delhi Police Act, 1978 to Head Constable Harvinder and notice to appear was issued to the petitioner for 05.12.2022. The learned Trial Court was further pleased to cancel Non-Bailable Warrants issued to respondent no. 2 *vide* order dated 03.12.2022. On 05.12.2022, the petitioner herein



filed an additional report, clarifying the position that Constable Amit had visited the address of respondent no. 2 and the name of Head Constable Harvinder was mentioned inadvertently. Thereafter, pursuant to the orders passed by the learned Trial Court, DCP, West, Delhi was pleased to issue a show cause notice to the petitioner on 06.12.2022. The learned Trial Court had made certain observations against the present petitioner *vide* order dated 23.12.2022, which reads as under:

“...In my considered opinion SI Deepali Chhabra instead of making efforts for execution of the warrants has straightaway made a report. It is apparent from her reply and statement that she did not visit the address of the accused person at all and such act amounts to gross negligence and depletion of her official duties. Cost of Rs 100/- be imposed upon SI Deepali Chhabra, DCP West is directed to deduct the amount of RS 100/- from the salary of SI Deepali Chhabra and send the compliance report on NDOH.

DCP West is further directed to initiate necessary administrative/disciplinary inquiry against SI Deepali Chhabra, Ct Amit and ASI Amar Singh under the directions of the Court. Let the compliance report regarding the same be filed on or before NDOH.

List the matter on 25/01/2023 for filing of compliance report, scrutiny of documents and consideration on charge. ”

3. Aggrieved by the aforesaid order and the directions passed therein, the petitioner has preferred the present petition.

4. Learned Senior Counsel for the petitioner states that the learned Trial Court while passing the impugned order had failed to appreciate the fact that the petitioner engaged the services of 5B staff unit to locate the address of respondent no. 2, which is a common practice in accordance with the standing orders issued by the Commissioner of Delhi Police. It is stated that the learned Trial Court had also failed to recognise that Constable Amit, who had visited the



address of respondent no. 2, had met her mother, who stated that she had no contact with the accused for a few years and refused to provide a formal statement to that effect. It is also argued that the learned Trial Court neglected to consider that Constable Amit had shared the Google location PIN on a map while visiting the address of respondent no. 2 to determine her whereabouts. Additionally, it is contended that the learned Trial Court did not appreciate that the reports dated 22.10.2022 and 15.12.2022 filed by the petitioner did not mention that the petitioner personally visited the address of respondent no. 2. Instead, it was explicitly stated that Constable Amit visited the address of respondent no. 2, and the report was prepared based on information received by the petitioner from the 5B Unit staff. Furthermore, it is argued that the learned Trial Court failed to appreciate that as per Standing Order No. LIC & LEG./16/2022, there is no requirement that the officer in whose name the execution of a warrant is designated must personally visit the location of the accused to execute the warrant. It is also stated that the learned Trial Court failed to acknowledge that the petitioner had inadvertently mentioned the name of Head Constable Harvinder instead of Constable Amit and that every minor irregularity does not amount to a grave misconduct. Additionally, it is also stated that the Court did not consider that words like "gross negligence" and "dereliction of official duties" used against the petitioner in the impugned order have no basis, especially in light of the fact that respondent no. 2 voluntarily appeared before the learned Trial Court on 22.10.2022, and the learned Trial Court itself canceled the Non-Bailable Warrants



on 03.12.2022. It is contended that the impugned order dated 23.12.2022 is contrary to the letter and spirit of Section 6 of Chapter 1, Part H of the Delhi High Court Rules for 'Practice in the Trial of Criminal Cases'. It is further argued by learned Senior Counsel that the order is against the well established principle of judicial restraint and the order will leave a permanent scar on the career of the petitioner. It is argued that the petitioner had been condemned without a hearing and the superior officer of the petitioner has been compelled under the directions of the Court to take action against her. Therefore, it is prayed that impugned order be set aside so far it relates to the directions issued against the petitioner.

5. This Court has heard the arguments addressed by learned Senior Counsel for the petitioner, and has perused material available on record.

6. This Court observes that the conduct of the petitioner in this case raised concerns in regards to the duty she was bound to do, that is to present correct facts before the Court. However, in this case, the petitioner had wrongly mentioned in her report that the Head Constable of her Police Station had visited the house of accused to execute Non-Bailable Warrants, however, it was Constable Amit of 5B Staff Unit who had visited the said house. Notably, the correct facts were not initially presented to the learned Trial Court on the first hearing, which subsequently was described as an inadvertent error. However, it was within petitioner's purview to ensure that accurate information was conveyed to the learned Trial Court right from the outset. This could have been achieved by including in her



initial report a comprehensive account of how the execution of the Non-Bailable warrants transpired. It is also true that the NBWs were ordered to be executed against the accused through SHO concerned and the SHO had assigned the same to petitioner, but the petitioner had further delegated it to other staff members.

7. The learned Trial Court, having received a report stating that the accused was untraceable, had reasonable grounds to inquire into the matter when the accused appeared before the Court. It is expected that when such reports, indicating that the accused cannot be located, are submitted to the court and then contradicted by the accused's appearance, the court would be compelled to scrutinize the accuracy of the initial "untraced" report. This situation could have been avoided if a more detailed and informative report had been presented to the learned Trial Court initially.

8. Furthermore, this Court believes that the observations recorded by the learned Trial Court against the present petitioner were justified given the circumstances. It is important to ensure that accountability to the law is maintained and that proper compliance with established procedures and laws is upheld.

9. Nevertheless, this Court also acknowledges that the order imposing fine upon the petitioner, to be deducted from her salary, have the potential to negatively impact the petitioner's career and future promotional opportunities, which would be an unduly severe consequence. Therefore, this Court deems it appropriate to set aside the impugned order insofar as it relates to the fine imposed on the petitioner. As regards the direction given by the learned Trial Court



to initiate necessary administrative/disciplinary inquiry against the present petitioner, the same stands modified to the extent that the concerned police department may conduct inquiry against the petitioner as per their own rules without any requirement to submit a report to the Court.

10. Accordingly, the present petition alongwith pending application stands disposed of, in above terms.

11. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 31, 2023/zp