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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: 01.08.2023**Pronounced on: 12.10.2023*

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W.P.(CRL) 701/2023 & CRL.M.A. 6440/2023**MASTER HARSH**

..... Petitioner

Through: Mr. Rahul M, Mr. C.D. Goswani,
Advocates

versus

THE COMMISSIONER OF DELHI POLICE AND ORS

..... Respondents

Through: Mr. Sanjeev Bhandari, ASC
(CRL) with Mr. Kunal Mittal,
Mr. Saurabh Tanwar, Advocates
SI Vishvendra Singh PS Mayur
Vihar, SI Amit Rana, PS Laxmi
Nagar**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the issuance of writ of Mandamus or any other appropriate writ/directions against the respondents to file the chargesheet in FIR bearing no. 224/2019 dated 10.07.2019 registered at Police Station Mayur Vihar, Delhi under Section 336 of Indian Penal Code, 1860 ('IPC').
2. Brief facts of the case are that the petitioner, had sustained a



severe head injury as a result of the accused persons' negligence, who were associated with the school in which petitioner was studying. At the time of the incident, the petitioner was a student in the 7th standard at 'Rajkiye Sarvodaya Bal Vidhyalay' (RSBV) School in Trilok Puri, Block-20, East Delhi. On 09.07.2019, around 02:00 p.m., during one of his classes, a ceiling fan had suddenly fallen on his head. Thereafter, the petitioner was taken to "LBS Hospital, Kalyanpuri," Delhi, and subsequently referred to Guru Teg Bahadur Hospital, Dilshad Garden, Delhi, due to the severity of his injuries. His injuries included a serious head injury, acute pain, and profuse bleeding.

3. Learned Counsel for the petitioner states that the police officials that the chargesheet in the present case has not been filed and the police officials are deliberately not filing the chargesheet despite passing three years. It is stated that There is no accountability of the police officials to complete the investigation timely and file the charge sheet timely, especially in the offences committed against children. It is argued that the petitioner is entitled for fair and speedy trial to effective justice delivery system. Thus, the respondent be directed to file the chargesheet in the present case and pay compensation for the delay in filing of chargesheet.

4. *Per contra*, learned ASC for the state, at the outset, states that the chargesheet in the present case has already been filed, and thus the relief petitioner is seeking has already been provided to him. It is stated that there is no such statute which provides for compensation in case of delay in filing of chargesheet, and in the present case the delay was due to the fact that the negligence which has been alleged was not against a



specific person, and hence investigation took time as the role of every person had to be ascertained.

5. This Court has heard arguments addressed by the learned counsel for the petitioner and learned ASC for the state and has perused material on record.

6. This Court notes that the day on which the case came up for hearing before this Court, it was brought to the notice of this Court by the learned ASC for the State that chargesheet had already been filed in this case, rendering the prayer marked as A essentially addressed and satisfied. Therefore, prayer A was not pressed further.

7. As far as prayer B is concerned, the petitioner seeks directions fixing the Accountability Of Police Officers in Matters Of Offences Against minors to Protect the Child Rights. In this regard, this Court notes that our legal system has already put in place comprehensive rules specifically designed to deal with offences against minors, with the primary objective of safeguarding their rights and ensuring accountability in such cases. Moreover, in case any action is sought for negligence of police in investigation of any matter whether against children or any other person, there are relevant sections of law under the Cr.P.C and civil remedies available which can be taken recourse to by any person including the petitioner herein. Considering these existing legal avenues for recourse, this Court is of the opinion that this Court is not required to frame new guidelines aimed at fixing accountability for police officers in such cases. The current legal framework is both comprehensive and flexible, designed to adapt to various situations and challenges.



8. As far as prayer C is concerned, which seeks initiation of an inquiry into the alleged negligent role of police officers in the investigation of the present case, this Court directs that the concerned Deputy Commissioner of Police (DCP) may treat this petition as a representation on behalf of the petitioner herein, who may conduct an inquiry as per law and under intimation to the petitioner herein, and it does not call for issuance of any further directions in this regard. Finally, as for prayer D, wherein the petitioner seeks compensation for the violation of the rights of the minor petitioner and his widowed mother, particularly in light of the delay in filing the chargesheet, it is noted that separate civil proceeding have already been initiated by the present petitioner seeking compensation from the school authorities believed to be responsible for the incident in question. This Court further notes that Section 357A of the Cr.P.C. contains provision with regard to the Victim Compensation Scheme. As per Section 375A(3) of Cr.P.C., if, upon concluding a trial, the Court deems that the compensation awarded under Section 357 is insufficient to facilitate the victim's rehabilitation, or if the trial results in an acquittal or the accused is discharged, but the victim still requires rehabilitation, the Court is empowered to recommend payment of compensation by the relevant Legal Services Authority. Similarly, as outlined in Section 375A(4), if the accused remains untraceable or unidentified, resulting in the trial not taking place, the victim has the option to apply for compensation through the State or District Legal Services Authority. In both scenarios, the respective Legal Services Authority must conduct a thorough inquiry, which should be completed within two months, and



subsequently, provide appropriate compensation to the victim.

9. This Court further notes the Cr.P.C as well as every legislated act fixes the time period within which the investigation is to be carried out and chargesheet is to be filed. In case the specified time as per law is violated, there are provisions within the law itself to deal with the same. This Court however also notes that the said safeguard is against an accused that in case the investigation is not carried out within a stipulated time provided under the statute, the benefit of the same goes to the accused and in this case, it is not specified or taken note of, that it causes injustice to the victim, since it is not the fault of victim that the investigation was not carried out expeditiously and the valuable right of the victim is lost due to a prolonged investigation or delay in investigation. As the right to speedy trial is a valuable trial for the accused, so is it for the victim. Similarly, the right to speedy investigation, though not mentioned in specified words in the statute, it is an inbuilt mechanism in the Cr.P.C and other Acts itself where it is provided that the investigation of a particular offence is to be carried out within the specific time period. It assumes importance since in case a person is in judicial custody and an investigation is carried out for an indefinite period, it will interfere with the liberty of the individual concerned. The Courts have however always tried to balance and safeguard the rights of the accused and victim. In case of delay in filing of chargesheet, the discretion to condone it and take cognizance is step towards ensuring the right of victim to get justice is not lost due to fault of or delay on part of investigating agency.

10. Therefore, the petitioner herein can take recourse to the remedies



available to him under law before the learned Trial Court in case the chargesheet is not filed in time. As far as the compensation for filing chargesheet for delayed investigation is concerned, this Court is of the opinion that in this case, the petitioner has already filed a suit for grant of damages against the concerned school for the injuries sustained by the child in question and therefore, this Court cannot grant compensation for delay in filing of chargesheet.

11. Accordingly, the present petition alongwith pending application, if any, stands disposed of in above terms.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 12, 2023/dk