



\$~62

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

Date of decision: 20th JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 9572/2023**

ANIL DUTT SHARMA

..... Petitioner

Through: Mr. Manoj Kumar Dwivedi,
Advocate.

versus

GOVT. OF NCT OF DELHI THROUGH LT. GOVERNOR

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT(ORAL)

CM APPL. 36635/2023 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 9572/2023

1. The Petitioner has approached this Court by invoking Article 228 of the Constitution of India and prays for a direction to the State to withdraw the case, i.e. CC No.09/2014, pending before the learned Special Judge, PC Act/ACB/Central-05/Tis Hazari Courts, Delhi, which arises out of FIR No.51/2014 dated 24.06.2014, registered at Police Station Anti Corruption Branch under Sections 7/8/13 of the Prevention of Corruption Act and 384/419/120B of the Indian Penal Code, on the ground that the said case raises substantial question of law, which, according to the Petitioner, arose



out of the events that happened prior to 07:00 PM on the date of registration of the FIR, i.e. 24.06.2014. The Petitioner has further prayed for a direction to the State to produce the written complaint/information received at 07:00 PM along with its D.D. entry.

2. The facts, in brief, as narrated by the Petitioner in the present Writ Petition are that a written information was alleged to have been received by the Police Station Anti Corruption Branch at 07:00 PM upon which a D.D. entry, being DD Entry No. 29, and later on an FIR, being F.I.R. No. 51/2014, was registered by the Anti Corruption Branch at 07.00 P.M on 24.06.2014. However, as per the Petitioner, prior to the registration of FIR at 07:00 PM on 24.06.2014, the following events took place:

“III. At 10.02 a.m.: A phone was made by one Joginder Singh from his Mobile Phone 92125501240 to the petitioner at his mobile phone number 9871622255 having cordial relationship with the petitioner and he insisted the petitioner to have a urgent talk but denied by the petitioner.

IV. At 10.08 a.m.: Another phone made by one Joginder Singh from his Mobile Phone 92125501240 to the petitioner at his mobile phone number 9871622255 compelled the petitioner to have a urgent talk but again denied by the petitioner.

V. At 2.24.p.m.: A phone made by one Joginder Singh from his Mobile Phone 92125501240 to the petitioner at his mobile phone number 9871622255 to call at Chauhan Banger Pulia.

VI. At 2.30 p.m.: A phone made by one Joginder Singh from his Mobile Phone 92125501240 to the petitioner at his mobile phone number 9871622255 insisted the petitioner to have a talk at Chauhan Banger Pulia.



VII. About 2.35 p.m.-2.50: The petitioner reached near Chauhan Banger Pulia and just reaching there, the petitioner was gripped by Jarnail Singh and Pankaj Sharma and at their instance Joginder Singh slapped twice at the chick of the petitioner. Meanwhile Pankaj Sharma took out from the pocket of petitioner his Mobile Phone and handed over to Jarnail Singh and Motor Cycle of petitioner.

VIII. At 3.00 p.m./03.52 p.m. till 7.00 p.m.: "Pankaj Sharma having dominion over said Mobile Phone as the capacity of public servant /in the guise of public servant, he transferred said Mobile phone to Jarnail Singh and both being public servants/in the guise of public servants committed criminal breach of trust/offence in the manner while Mr. Jarnail Singh made 9 phone calls between 3.52 p.m. to 07.00 p.m.

IX. On 24.06.2014 impersonating Anil Dutt Sharma/petitioner to the MCD officials for creating false evidence against Anil Dutt Sharma. It is submitted that Jarnail Singh admitted before the Court of learned Special Judge that at 3.00 p.m. he had made phone calls to MCD officers but these phone calls are being reflected in the CDR of Phone number 9871622255 at 3.52 p.m. and later on and its audio recordings are contained in the Mobile Phone in which impersonation of petitioner by Jarnail Singh is established.

X. At about 3.45 p.m.: The ACB police officers taking custody/ kidnapping and abduction to the petitioner reached in a vehicle at ACB police Station.

XI. At 07.00 p.m.: Pankaj Sharma prepared/fabricated/forged some documents/seizure memo of Mobile Phone to cheat the petitioner and



handed over the same to Jarnail Singh precluded himself from further involvement and thereafter on the basis of incriminating audio recordings of phone calls made by Jarnail Singh during above said time, a F.I.R. No. 51/14 ACB at 7.00 p.m. under POC Act was registered against the petitioner and they at un-known time, deleted some audio recordings of phone calls contained in the said mobile deliberately and fraudulently for the purpose of cheating and fraud to the petitioner. ”

3. The case of the Petitioner, in short, is that the registration of FIR is a product of collection and fabrication of evidence so that the custody of the Petitioner could be secured and the Petitioner could be kept in judicial custody.
4. The Petitioner has not been able to make out any question of law.
5. According to the Petitioner, the Officers of Anti Corruption Branch have committed offence which have been narrated in paragraph No.9 of the Writ Petition and the same reads as under:

“9. That the evidences in support of abovesaid allegations inflicted in para no. 4 hereinabove which proves that the ACB officers have committed various offences. The references are as under:

I. Non-existence of compliance of clause 22.11 & 22.48 PPR read with section 44 D.P. Act, F.I.R, complaint having D.D. entry alleged to be made either 10.30 or at 2.35 p.m. on 24.06.2014 in the record of ACB.

II. Non-existence of seizure Memos of Mobile Phone prior to making phone calls by Jarnail Singh to the MCD officer.

III. Audio recordings of phone calls made to MCD



officers impersonating the petitioner by Jarnail Singh prior to registration of F.I.R. at 7.00 p.m.

IV. Incorrect and incomplete transcripts of the phone calls dated 18.06.2014 and 23.06.2014 which audio recordings are contained in the DVD/Mobile which are in possession of ACB/Court.

V. Order/direction dated 22.11.2017 passed by Police Complaint Authority to police.

VI. Fabricated complaint dated 24.06.2014 which have no D.D. entry ”

6. Material on record also shows that the Petitioner has filed the following petitions:

- a. CRL.M.C. 3220/2015 was filed by the Petitioner for quashing of FIR no.51/2014 and *vide* order dated 11.08.2015 this Court has disposed of the said petition with liberty to petitioner to urge the pleas taken in the said petition before the trial court at the stage of framing of charge.
- b. CRL.M.C. 3596/2017 was filed by the Petitioner after framing of charges and the same was withdrawn on 18.01.2018.
- c. CRL.REV.P. 345/2018 was filed by the Petitioner challenging the order framing charges and the same was dismissed by this Court vide Order dated 02.11.2023.

7. The Petitioner is, therefore, in the habit of filing unnecessary petitions before this Court and the same facts, which have been narrated in the present Petition, are being urged repeatedly. This Court is of the opinion that the present petition is nothing but an abuse of the process of law. No question of



law has been framed in the entire petition which requires the matter pending before the learned Special Judge to be transferred. At this juncture, this Court is not inclined to impose costs on the Petitioner for abusing the process of law.

8. The Writ Petition is dismissed. Pending applications, if any, also stand dismissed.

9. It is always open for the Petitioner to urge the grounds, which have been raised in the present petition, as his defence in the trial as and when the same begins.

SUBRAMONIUM PRASAD, J

JULY 20, 2023

Rahul