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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Judgment reserved on: 06.10.2023**% **Judgment delivered on: 10.10.2023**+ **LPA 667/2023 and CM APPL. 50508-50509/2023****ANIL DUTT SHARMA** AppellantThrough: Mr. Manoj Kumar Dwivedi &
Mr.Chirag Anand, Advocates.

versus

GOVT. OF NCT OF DELHI RespondentThrough: Mr. Udit Malik, Additional Standing
Counsel with Mr. Vishal Chanda,
Advocate for respondent/ GNCTD.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE SANJEEV NARULA****J U D G M E N T****SATISH CHANDRA SHARMA, C.J.**

1. The present appeal is arising out of judgment dated 20.07.2023 passed by the learned Single Judge in W.P.(C.) No. 9572/2023 titled "**Anil Dutt Sharma Vs. Govt. of NCT of Delhi Through Lt. Governor**".

2. The facts of the case reveal that the appellant before this Court has preferred a writ petition being W.P.(C.) No. 9572/2023 under Articles 226, 227 & 228 of the Constitution of India stating that his fundamental rights



guaranteed under Articles 14 & 20 of the Constitution of India are being violated on account of the act/ omission of the Anti Corruption Bureau police officers who discharge their duties in arbitrary manner without having lawful authority and without following established procedure and due process of law.

3. The undisputed facts of the case reveal that the appellant/ writ petitioner is facing criminal prosecution arising out of FIR No.51/2014 registered at 07:00 p.m. on 24.06.2014 at Police Station Anti Corruption Bureau Branch, as stated in the writ petition. The facts further reveal that the appellant/ petitioner has earlier also made all possible attempts for quashment of the said FIR. The appellant/ petitioner has filed the following cases before this Court:

- 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- b.) CRL.M.C. 3596/2017 was filed by the Petitioner after framing of charges and the same was withdrawn on 18.01.2018.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.



d.) The present appeal being LPA 667/2023 is the fourth attempt on the part of the petitioner for quashment of the FIR.

4. The appellant/ petitioner before the learned Single Judge came out with the case that the registration of FIR against the petitioner was based upon fabricated and concocted story and he has been victimized by the police officers. The appellant/ petitioner has stated in the writ petition that prior to registration of FIR, he was detained by the police officers; he was taken into custody/ he was kidnapped and abducted; and later on, the FIR was lodged.

5. The learned Single Judge – after careful consideration of the averments made in the writ petition, has disposed of the writ petition holding that the petitioner is in the habit of filing unnecessary petitions for quashment of FIR and no question of law has been framed in the writ petition which requires the matter pending before the learned Special Judge to be transferred. The prayer clause in the writ petition is reproduced as under:

“a) Direct the prosecution/respondent State to withdraw the case pending before the Ld. Special Judge and the same may transfer before this Hon’ble Court for disposal; and or

b) Determine the substantial question of law under Article 228 of Constitution which arose out from the events happened prior to 07.00 p.m. on 24.06.2014 and direct the prosecution/ respondent State to produce the written complaint/ information received at 07.00 p.m. along with its D.D. entry against the petitioner.

c) Acts was done in the execution of duty



d) *And any other order Pass any such other orders which Your Lordships may deem fit in the interest of justice.”*

6. The prayer clause in the writ petition reveals that the petitioner – in respect of the same FIR, has made a prayer for issuance of an appropriate writ, order or direction to the prosecution/ State to withdraw the cases pending against the petitioner and has also sought determination of substantial question of law under Article 228 of the Constitution of India which arose out of the events happened in the present case.

7. The learned Single Judge has dismissed the aforesaid writ petition by the judgment dated 20.07.2023. The operative portion – as contained in paragraphs 2 to 9, of the judgment passed by the learned Single Judge reads as under:

“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.”

8. This Court has carefully gone through the writ petition as well as the judgment passed by the learned Single Judge. This Court – for the first time, has encountered a situation where the writ petition is filed under Articles 226, 227 & 228 of the Constitution of India after failing in the other petitions which have already been filed for quashment of FIR; for quashment of criminal proceedings; and for quashment of criminal charge-sheet.

9. The present case is nothing but a sheer abuse of the process of law. After being failed in the earlier round of litigation, the petitioner has filed the present petition for bringing the criminal proceedings to an end.



10. In the considered opinion of this Court, the learned Single Judge has rightly held that the petitioner is in the habit of filing unnecessary petitions. The petitioner was arrested on account of a criminal case arising out of FIR No.51/2014 and the petitioner's arrest is certainly justified. He was involved in a criminal case. As held by the learned Single Judge, the petitioner has not framed any substantial question of law in the present writ petition which requires transfer of the matter pending before the Special Judge.

11. In the considered opinion of this Court, the question of interference by this Court in the peculiar facts & circumstances of the case, does not arise. The appellant/ petitioner – in respect of the FIR which was registered in the year 2014, is making all possible attempts to derail the trial which is pending since 2014, meaning thereby, for the last approximately ten years.

12. This Court does not find any reason to interfere with the judgment passed by the learned Single Judge. The appeal is, accordingly, dismissed.

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

(SANJEEV NARULA)
JUDGE

OCTOBER 10, 2023

B.S. Rohella