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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 348/2024

GYAN PARKASH

..... Petitioner

Through: Mr. Varun Jain and
Dr. M.K. Gahlaut,
Advocates

versus

STATE NCT OF DELHI THROUGH

COMMISSIONER OF POLICE & ORS. Respondents

Through: Ms. Nandita Rao, ASC for
the State with Ms. Anuka
Bachawat, Mr. Jasraj S.
Chhabra & Mr. Amit
Peshwani, Advocates with
SI Abhimanyu Kumar, PS
Aman Vihar.
Mr. Krishna Kr. Pandey &
Mr. Vivek P. Gupta,
Advocates for R-3 to 7.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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01.02.2024

CRL.M.A. 3244/2024 (exemption from filing the certified copies of the annexures and illegible copies of annexures and dim annexures)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(CRL) 348/2024 & CRL.M.A. 3245/2024 (stay)

3. The present petition is filed seeking quashing of the Kalandra issued by the respondent/State vide DD No. 015, dated 30.10.2023, prepared by Police Station Aman Vihar, issuing summons under Sections 107/150 of the Code of Criminal



Procedure, 1973 ('CrPC')

4. The learned counsel for the petitioner submits that on 29.10.2023, Respondent Nos. 3 to 7, along with other persons, designed a well-planned conspiracy and came to the house of the petitioner. They attacked the petitioner, due to which the petitioner had to take shelter in the house of his neighbour. He submits that Respondent Nos. 3 to 7, at that time, were equipped with iron rods and stones.

5. He submits a PCR call was made by the petitioner to the Police Station Aman Vihar. He submits that an FIR ought to have been registered on the complaint given by the petitioner, however, the State erroneously issued a Kalandra under Section 107/150 of the CrPC. He submits that an FIR was ultimately registered on 03.12.2023, being FIR No. 713/2023, at Police Station Aman Vihar. He submits that when the FIR has already been registered the State ought to have withdrawn the Kalandra.

6. The learned Additional Standing Counsel for the State, who appears on advance notice, submits, on instructions, that the police had received two calls on 29.10.2023– one at the instance of the petitioner and the other at the instance of Respondent No. 3.

7. She submits that when the police reached the spot of the incident, they saw that there was a scuffle between the parties and that a large crowd had assembled there. She states that there was a possibility of breach of peace, disturbance of public tranquillity and possibility of some wrongful act being committed, in view whereof, the Kalandra was prepared.

8. She submits that the next date before the learned Executive Magistrate is 08.02.2024. She further submits that the learned Executive Magistrate has the jurisdiction to dispose of the



proceedings, in terms of Section 107 and 108 of the CrPC, on a bond being given by the parties, if the learned Executive Magistrate is satisfied that the purpose for which the Kalandra was prepared is achieved.

9. The proceedings that had been initiated by issuance of the Kalandra under Section 107/150 CrPC has to be disposed of by the concerned learned Executive Magistrate, on being satisfied that the likelihood of the breach of peace or disturbance of tranquillity no longer exists.

10. The learned Executive Magistrate for such purpose can ask the parties to execute the necessary bond. The argument that since the FIR has already been registered, the Kalandra should be disposed of shall also to be considered by the Executive Magistrate.

11. In view of the above, this Court does not consider it apposite to keep the present petition pending.

12. The learned Executive Magistrate is directed to dispose of the Kalandra issued under Sections 107/150 of the CrPC expeditiously after considering the arguments as advanced by the petitioner before this Court.

13. The petition is disposed of in the aforesaid terms.

14. It is made clear that this Court has not given any opinion on the merits of the case and the same shall be considered by the concerned Executive Magistrate on its merits.

AMIT MAHAJAN, J

FEBRUARY 1, 2024

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