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

+ **W.P.(CRL) 760/2023 & CRL.M.A. 6978/2023**

AMANUL HAQ AND ANR.

.....Petitioners

Through: Mr. Mehmodd Pracha, Mr. Sanawar,
Mr. Nujhat Naseem, Mr. Shameem
Chaudhary & Ms. Sadiya, Advocates.

versus

STATE AND ORS.

.....Respondents

Through: Mr. Sanjeev Bhandari, ASC, Crl. for
State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

05.08.2024

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1. The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioners seeking the following prayers: -

"a. to allow the present petition and transfer the investigation of F.I.R. No. 185 of 2023, P.S. Nangloi, to Crime Branch of the Delhi Police or any other specialized independent investigating agency;

b. direct the police to obtain all CCTV footage from the relevant spots, including Najafgarh Road, Nangloi, Nangloi Metro Station, Sarvodaya Kanya Vidyala Nangloi, and Police Station Nangloi;

c. direct the Police to conduct a fair, thorough, and impartial investigation;

d. direct action against Respondent No. 4, including disciplinary



action and appropriate criminal proceedings including under Section 166A of the IPC;

e. direct the Respondents to take appropriate and necessary measures for protection of the Petitioners;

f. direct the Respondent No. 5 to compensate the Petitioner No. 2 for the death of his son;

g. monitor the investigation of the case.”

2. The factual matrix is that an incident took place on 14.02.2023, wherein one innocent boy was brutally murdered by street thugs in full public view. The FIR No. 185/2023 was registered under Sections 302/34 of the Indian Penal Code, 1860 (*hereinafter referred to as “IPC, 1860”*) Police Station Nangloi, Delhi. The complaint of the incident was also made by petitioner No. 1-Amanul Haq, the friend and colleague of deceased-Sahil Malik who was present with him at the time of murder.

3. The sequence of events leading to this murder is that earlier in the day on 14.02.2023 the elder son, Vishal Malik of petitioner No. 2-Shakeel Malik, was returning home on his motorcycle, when an RTV bus driver, having curly hair and later whose name was found to be Sunny, got into an altercation with him and about 4-5 persons who were the associates of the RTV driver, came down from the bus, and they amongst whom were also one Danny and one Jonny, apprehended Vishal Malik, as he attempted to leave the spot. The RTV driver followed Vishal Malik upto Nangloi Metro Station and tried to run over him. At this stage, the persons from the RTV got down again and apprehended Vishal Malik left the motorcycle behind to flee in order to save his life.

4. Thereafter Vishal Malik spoke to the petitioner No. 2-Shakeel Malik, his father and called the PCR, and then went to Nangloi Police Station,



Delhi and met respondent No. 4-ASI Mukesh Malik.

5. The petitioner No.2-Shakeel Malik also arrived in the Police Station with some of his relatives, and they all pleaded with the respondent No. 4-ASI Mukesh Malik to resist their case and to get the motorcycle recovered. However, the respondent No. 4-ASI Mukesh Malik refused to go to the said spot, in violation of his duties under Section 157 of Cr.P.C., 1973 and asked the petitioner No. 2-Shakeel Malik to get the motorcycle recovered himself. By that time, the younger son, Sahil Malik, of the petitioner No. 2-Shakeel Malik also arrived and was told by the respondent No. 4-ASI Mukesh Malik that since he was not the part of the quarrel, he may go to the spot and get the motorcycle. Accordingly, Sahil Malik along with the petitioner No. 1-Amanul Haq went to the spot and found the motorcycle lying in broken condition. They both proceeded home so that Sahil Malik could change his clothes from his office uniform and, thereafter, he and the petitioner No. 1-Amanul Haq went to the spot and started taking photographs and video of the damaged motorcycle.

6. At this stage, a group of violent and aggressive people came to the spot and apprehended Sahil Malik as well as the petitioner No.1-Amanul Haq. Thereafter, the aforesaid RTV driver brutally stabbed Sahil Malik and when the petitioner No. 1-Amanul Haq tried to somehow repel the assailants, they fled from the spot. Sahil Malik, in the meanwhile, was visibly in the state of shock and disorientation and he was taken to Soniya Hospital, where he was declared dead. It is only thereafter that the present FIR was registered.

7. After the said incident, the petitioner No. 2-Shakeel Malik made a detailed complaint to the Police for proper investigations of the case and



apprehension of the accused persons, who had absconded.

8. The petitioners have claimed that the role of the Police in the present case is under serious scrutiny. The death of Sahil Malik is directly linked to the conduct of the respondent No. 4-ASI Mukesh Malik who refused to perform his duties under the Cr.P.C., 1973. At least three accused-persons i.e., Jonny, Sonu and Rahul have not been arrested by the Police till date.

9. It is submitted that the relevant CCTV footage from the area, including Najafgarh Road, Nangloi Metro Station, Government School near the spot of the incident and other areas is also required to be obtained by the Police so that the comprehensive picture of the incident and the role of the accused persons, can be ascertained.

10. Furthermore, the CCTV footage of the Police Station Nangloi is also necessary to establish the presence of the petitioner No. 2-Shakeel Malik and his elder son, Vishal Malik at the Police Station.

11. Therefore, it is submitted that aforesaid directions as sought by the petitioners be passed.

12. **The Status Report** has been filed on behalf of the State, wherein it has explained that during the course of investigation, FSL Team and Crime Team inspected the scene of crime and lifted the exhibits and they were then sent to FSL for obtaining the expert opinion, though the result of the same is awaited.

13. It has further been explained that during the course of investigation, the weapon of crime i.e., the knife was recovered at the instance of the accused-Sunny and Pankaj @ Taini. Subsequent opinion in respect of the weapon of crime has been obtained, wherein it has been opined that *“injuries mentioned in the PM Report are possible with weapon examined*



or similar one”.

14. It is also submitted that two motorcycles used for commission of crime have also been recovered at the instance of the accused-Pankaj @ Taini and Deepanshu @ Deepu. The PCR Call has also been collected from the PCR Control Room.

15. It is explained that during the course of investigations, it was revealed that brother, Vishal Malik, of the deceased, Sahil Malik had quarrelled with Jonny along with Sunny, Sonu and Durga DP, while he was going to gym. Jonny along with accused-Sunny, Sonu and Durga DP were in the RTV bus, which was plying on the road from Uttam Nagar to Nangloi Metro Station. When Vishal Malik reached near Nangloi Metro Station, the accused-Sunny rushed towards him with a rod in his hand. Vishal Malik ran away from the spot leaving his bike there. The alleged accused persons damaged the bike with rod and stones.

16. It is submitted that during the course of investigations, the evidence has been collected of the complainant/witnesses/eye witnesses, recovery of crime of weapon, subsequent opinion of the Doctor has been taken who opined that injuries mentioned in the PM Report are possible with weapon examined or similar one, the statement of one independent eye-witness has been recorded, the CDR and phone details of the accused persons have been obtained, the analysis of which revealed that the accused persons were present at the scene of crime on that day and time. The nail clipping and clothes of the accused persons were sealed and sent to FSL for expert opinion and the vehicles used during the crime have also been seized.

17. It is further submitted *accused-Jonny @ Devender is absconding* and Non-bailable Warrants have also been obtained from the learned Trial Court.



18. Also, during the course of investigations, the following six persons were apprehended and arrested in the present case: -

- (i) Sunny,
- (ii) Sumit @ Pankaj @ Taini,
- (iii) Parkash @ Durga DP,
- (iv) Deepanshu @ Deepu,
- (v) Rahul, and
- (vi) Sonu.

19. The Chargesheet under Sections 302/427/323/34 of IPC, 1860 has been filed against all the aforesaid six accused persons before the learned Trial Court, on 12.05.2023.

20. **Submissions heard.**

21. Before considering the prayers as sought above, it is pertinent to observe that the Chargesheet has already been filed and committed to the Court of Sessions.

22. The present petition challenges the investigations having not been conducted completely or that the investigations be monitored. This prayer has become infructuous since the matter has already been committed to the Court of Sessions. The petitioner is at liberty to seek appropriate remedy before the Court of Sessions.

23. Whether the investigations have been conducted properly by the respondent No. 4-ASI Mukesh Malik or whether there has been dereliction or that he has committed any criminal offence under Section 166A of IPC, 1860 is concerned, *prima facie*, at this stage, no further directions are required to be passed against respondent No. 4-ASI Mukesh Malik initiate any disciplinary inquiry against him. However, this issue is left open to be



considered during or after conclusion of the trial by the learned Additional Sessions Judge.

24. In the end, the prayer has also been made that the petitioners be granted necessary protection. The concerned SHO is directed to share his mobile number and that of the Beat Constable with the petitioners and to remain available for them so that the petitioners may alleviate their apprehension of any threat to their life.

25. Moreover, the petitioners are at liberty to approach the Witness Protection Committee of the concerned District Court for seeking requisite protection.

26. Insofar as the compensation for murder of Sahil Malik as sought by way of present petition is concerned, the same may be considered by the learned Trial Court at the time of awarding the sentence or at the appropriate stage after the conclusion of the trial.

27. In view of above, no further directions are warranted.

28. Accordingly, the present petition along with pending application is disposed of in the above terms.

NEENA BANSAL KRISHNA, J

AUGUST 5, 2024

S.Sharma