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

+ **W.P.(CRL) 583/2020**

DHANESH KUMAR K

..... Petitioner

Through: Mr. Arun Poomulli, Advocate
(through VC).

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Bharathi Raju, Senior Panel
Counsel for UOI.
Mr. Sanjay Lao, Standing Counsel
(Crl.) with Mr. Abhinav Kumar Arya,
Adv. for State alongwith SI Deepak
Tanwar, P.S. Delhi Cantt.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

03.05.2024

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1. The present petition under Article 226 of the Constitution of India seeks the following prayers:-

“(i) Issue appropriate writ in the nature of mandamus or such other appropriate writ or order directing the Respondents No.1 to 4 to reopen the investigation;

(ii) Issue writ in that nature of mandamus or such other writ direction or orders commanding the Respondents No.1 and 2 to fix the problems pertaining to the functioning of the CCTV cameras erected in various parts of the NCR and the Capital City and take appropriate measures for the appropriate functioning of the same;

(iii) to call for the records leading up to the Annexure- P7 order dated 01.06.2017 passed by the Metropolitan Magistrate, Patiala Courts, New Delhi, P.S. Delhi Cantt. and set aside the same;

(iv) Issue any such direction order to the 4th respondent Almad, Metropolitan Magistrate, Patiala House New Delhi, P.S. Delhi Cantt. to consider Annexure-P5 application preferred by the petitioner and issue



a certified copy of the order date 01.06.2017 in FIR NO. 237 of 2016 of the Delhi Cantt. Police Station;

(v) To grant such other reliefs as may be prayed for and to which this Hon'ble Court may deem just and necessary in the facts and circumstances of the case.”

2. Status report dated 17.04.2023 authored by Insp. Vipin Kumar, Station House Officer, P.S. Delhi Cantt, Delhi records as under:-

“It is submitted that on 09.07.2016, information regarding Road Traffic Accident, at NH-48, way heading towards Dhaula kuan to Gurugram, in front of Army Hospital, Delhi was received at Police Post Subroto Park Vide DD No. 9PP and entrusted to He Manmohan No. 455/SW for necessary action. On receipt of information he reached near Metro pillar No. 142, way heading towards Dhaula kuan to Gurugram Haryana NH-48, Delhi wherein one government vehicle i.e. Royal Enfield Motorcycle belongs to Indian Army bearing registration No. 08A-060733X found parked in accidental condition and driver of said motorcycle was found to be shifted to an unknown hospital. 10, got preserved the place of incident and took the photographs of the scene of crime. In the meantime, information about admission of patient at R & R. Hospital Delhi Cantt. was received at PP Subroto Park PS Delhi Cantt vide DD No. 14 PP. In this regard 10, reached at R & R. Hospital and collected the MLC bearing No. 239/16 of injured Dhanesh Kumar K slo Sri Dharam rio Akkool House Kayara Lam (PO) Mayyil Distt. Kannur, Kerla age 38 years serving in Indian Army as LNK. The injured was declared fit for statement and nature of injury was mentioned as grievous on his MLC by the doctors. In this regard statement of complainant Dhanesh Kumar K was recorded wherein he alleged that on 09.07.16 in the morning hours, he alongwith Govt. Motorcycle (Royal Enfield) bearing No. 08A060733X was coming after refueling his motorcycle to Manekshaw Centre from Shankar Vihar Patrol pump, Delhi. At about 07:00 AM, he reached Near to Metro pillar No. 142, NH-48, Delhi, in the meantime one unknown vehicle hit his motorcycle from back side and ran away from the spot. He fell down on the road with his govt. vehicle and received injury. Unknown person made call to Police and peR van brought him R&R Hospital Delhi Cantt. for getting conduct his medical treatment. In this regard a case vide FIR No. 237116 uls 279/338 IPC PS Delhi Cantt. was registered and investigation was taken up.

During course of investigation Govt. motorcycle (royal



Enfield) was seized and deposited in Malkhana and site plan on the instance of complainant was prepared and efforts were made to trace the offending vehicle and analyzed the CCTV 3 Cameras installed near and around the place of incident but no clue came on record about the registration number of offending vehicle. During investigation IOIHC Manmohan made efforts to examine the eye witness of incident but all in vain. In this regard an untrace report in above said case was prepared and sent to court for judicial verdict on 16.03.17.

Documents of Govt. Motorcycle (Royal Enfield) were got verified from concerned department. On 01.06.2017, untrace report was accepted by the Hon'ble Court in presence of complainant Dhanesh Kumar. The Detailed Accidental Repoli in above noted case was filed before the Hon'ble MACT on 01.06.2017 vide No. 6093117 and same was decided on 06. 11.2017.”

3. *Vide* order dated 01.06.2017, the learned Metropolitan Magistrate accepted the untraced report on account of statement of the present petitioner with liberty to re-open the prosecution case as and when any clue is found regarding the offending vehicle/accused.
4. It is further submitted that in the proceedings before the Motor Accident Claim Tribunal (MACT), the statement of the present petitioner was recorded on 06.11.2017 where again he gave a statement that he was satisfied with the investigation in the present case.
5. Learned counsel for the petitioner submits that notice in the present petition was issued with respect to prayer (ii). So far as the prayer (ii) is concerned, learned counsel for the petitioner would be at liberty to initiate appropriate proceedings in accordance with law. With respect to the other prayers regarding challenge to order dated 01.06.2017, the same are dismissed in view of the fact that the petitioner himself had accepted the investigation report.
6. With these directions, the petition is dismissed and disposed of.



7. Pending application, if any, also stands disposed of.

AMIT SHARMA, J

MAY 3, 2024/nk

Click here to check corrigendum, if any