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

+ W.P.(CRL) 927/2024

OM PRAKASH

..... Petitioner

Through: Mr. Sumant De & Mr.
Shiv Dutt Kaushik, Advs.

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Sanjay Lao, Standing
Counsel (Crl). with Adv.
Abhinav Arya & Adv.
Shivesh Kaushik for State.
SI Nikhil, PS K.M. Pur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.03.2024

1. The present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking the following prayers:

"A. Allow the present writ petition;

B. Pass an appropriate writ, order or direction thereby directing de novo investigation of the Case FIR No. 108 of 2024 dated 10.03.2024 registered under Sections 307/427/34 of the Indian Penal Code, 1860 at Police Station K. M. Pur, Delhi by the Central Bureau of Investigation, Crime Branch or any other special investigation agency/unit of the Delhi Police for proper, fair and impartial investigation of the present case FIR in the interest of justice;

C. Pass an appropriate writ, order or direction thereby directing the Deputy Commissioner of Police, South District, Delhi Police, Delhi to forthwith conduct an in-depth investigation in a fair, impartial and time-bound manner under his



direct supervision or by a Senior Police Official not below the rank of Assistant Commissioner of Police, in the present case FIR;

D. Direct for fair and impartial investigation to be carried in the present Case FIR and arrest the accused persons during the pendency of the present writ petition;

E. Pass an appropriate writ, order or direction thereby providing adequate Police Protection to the Petitioner whilst ensuring that no physical harm/intimidation/obstruction is caused to the petitioner by the accused persons/private Respondent(s) herein and/or his agents/associates/relatives etc.;

F. Direct the Respondent to get recorded the Statement of the Petitioner/Victim in the present case FIR before the concerned Metropolitan or Judicial Magistrate;

G. Pass an appropriate writ, order or direction in the interest of justice thereby directing the Respondent State and/or the investigating agency investigating offenses registered under Chapter XVI i.e., offenses affecting Human Body to mandatorily get recorded the statement of the victim(s) in the said cases before a Metropolitan or Judicial Magistrate in all said cases alleging offenses affecting Human Body;

H. Pass an appropriate writ, order or direction in the interest of justice thereby directing the Respondent State and/or the investigating agency to mandatorily inform the victim and/or complainant about the Bail Applications of an Accused listed before the Hon'ble Courts in all FIRs registered under Chapter XVI i.e., offenses affecting Human Body;

I. Pass an appropriate writ, order or direction thereby directed the respondents to take punitive actions against the erring officials for not doing the investigation in fair and impartial manner and not arresting the accused persons;

J. Pass such further order(s) and/or direction(s) as



this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the Interest of Justice."

2. The FIR No. 108/2024 was registered on a complaint given by the complainant, namely, Suraj, who is a grandson of the petitioner. It is alleged that the complainant had gone to the petitioner's house to give him food. The petitioner was getting some plastering work done. It is alleged that at that time, Gaurav and Saurav, who are the sons of Respondent No.3 [uncle (*Tau*) of the complainant], were there. It is alleged that the said accused persons fought with the labourers and chased them away. It is alleged that the complainant called the petitioner on the spot whereafter accused Gaurav brought a sword from his home along with accused Saurav. It is alleged that the said accused persons attacked the petitioner with the intention of killing him, due to which the petitioner also sustained injuries to his head. It is alleged that when the complainant tried to intercede, he also got hurt on his left arm and wrist. It is alleged that when the complainant was going to hospital with the petitioner, Respondent No.3 and his three sons threw bricks and stones from their house on the car as well, thereby damaging the vehicle.

3. The learned counsel for the petitioner submits that the local police is hand in gloves with the accused persons, who have registered an FIR No. 111/2024 dated 14.03.2024, against the petitioner, for offences under Sections 323/ 341/ 452/ 354/ 427/ 34 of the IPC at the instance of the accused persons.

4. He submits that in order to avoid any action in relation to the complaint given by the grandson of the petitioner, FIR No. 111/2024 has been registered as a counterblast. He submits that the police is not investigating FIR No. 108/2024 in a fair and



impartial manner. He further submits that there has been delay in recording of the petitioner's statement before the learned Magistrate.

5. The learned Standing Counsel for the State, who appears on advance notice, submits that unwarranted and frivolous allegations have been made in the present petition.

6. He submits that two of the co-accused persons, who also happen to be grandsons of the petitioner, have already been arrested and are currently in judicial custody.

7. He submits that the allegations have been made by the parties in relation to property disputes, where the petitioner and two of his sons are quarrelling with the other two sons of the petitioner.

8. He, however, fairly submits that if the petitioner feels threat to his life and liberty, he can contact the Beat Officer, whose number would be provided to the petitioner. He submits that the petitioner can also contact the concerned SHO, if need arises, and immediate action will be taken.

9. The learned Standing Counsel further submits that as and when any bail applications are filed by the accused persons, the State as a matter of policy informs the complainant about the filing of such applications and any prayer in that regard is without any merit.

10. He further submits that he would, in any case, sensitise the Investigating Officer to inform the complainant as and when any application is filed by the accused persons.

11. Insofar as the recording of the petitioner's statement is concerned, he submits that appropriate steps in relation to the recording of the statement under Section 164 of the CrPC would be taken without any delay.



12. In the opinion of this Court, the FIR was registered only on 10.03.2024 and the investigation is still at a nascent stage. Only because another FIR was registered at the instance of the accused persons, the same cannot be a ground to allege that a fair and impartial investigation has not been carried out.

13. It is settled law that the police is bound to register an FIR if the allegations in relation to commission of cognizable offence is made by the complainant. If the FIR does not disclose commission of any cognizable offence, the petitioner is also at liberty to take appropriate steps for quashing of the FIR. However, the same, at this stage, cannot be held to be pointing towards impartial or unfair investigation on the part of the State.

14. In view of the above, no orders are required to be passed at this stage.

15. The petition is dismissed.

16. The petitioner is at liberty to take appropriate steps if any grievance in relation to the investigation remains.

AMIT MAHAJAN, J

MARCH 20, 2024

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