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

+ W.P.(CRL) 979/2022 & CRL.M.A. 8263/2022 & CRL.M.A. 20974/2023

MEWA DEVI AND ANOTHER Petitioners

Through: Mr. Gunjan Arora, Advocate

versus

STATE NCT OF DELHI AND ORS. Respondents

Through: Mr. Rahul Tyagi, ASC for State with
SI Sunil Kumar, PS: Prashant Vihar.

Mr. Hariom and Mr. Ghanshyam, Advocates for
R-5 to 7.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

21.03.2024

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1. This petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking the following reliefs:-

“(i) directing the Respondent no. 1 to transfer enquiry being improperly conducted by the Respondent no.3 regarding the matter of assault and injuries of the Petitioner no.1 suffered on 03/08/2021 and depicted in medical record Annexure P-1 as well as in complaints Annexure P-2 and P-4 to some senior police officer or other Government Investigating Agency except the police officials of P.S. Parshant Vihar.

(ii) directing the Respondent no. 1 to provide adequate security to the lives and liberty of the Petitioners who are facing threats at the hands of respondent no. 5 to 8.

(iii) directing the Respondent no. 1 and Respondent no. 2 to take disciplinary action against the police officials of P.S. Prashant Vihar who at the relevant point of time failed to act in accordance with law and had not taken any step to initiate criminal action against the culprits who had assaulted the petitioner no. 1 and caused injuries to her and to issue appropriate writ, order or direction quashing the notice dated 22.03.2022



issued by the respondent no. 4 to the petitioners to join investigation which is in complete contravention of the guidelines framed by the Hon'ble High Court and any other writ, order or direction which the Hon'ble Court deems fit and proper as per the facts and circumstances of the case may also kindly be passed in favor of the petitioners in the interest of justice."

2. A bare reading of the relief clause shows that Petitioners are seeking: (a) transfer of enquiry being conducted by Respondent No.3 pertaining to the alleged assault on Petitioner No.1 and injuries allegedly suffered by her on 03.08.2021 to another agency; (b) to provide adequate security to the Petitioners allegedly facing threats at the hands of Respondents No.5 to 8; and (c) to direct Respondents No.1 & 2 to take disciplinary action against police officials of PS: Prashant Vihar for failing to take criminal action against the culprits who assaulted Petitioner No.1.

3. In the entire petition, there is no averment pointing out how the investigation was improperly conducted by Respondent No.3 regarding the alleged assault on Petitioner No.1 and the injuries suffered. Even during the course of hearing, despite repeated queries by the Court, learned counsel for the Petitioners is unable to point out any flaw or impropriety in conduct of the investigation, save and except, drawing the attention of the Court to paragraph 6 of the petition, wherein it is averred that despite making a call on 100 number at the time of the alleged incident, no FIR was registered against the culprits. There is no gain saying that if the Petitioners are aggrieved by the non-registration of the FIR, they have a separate remedy in law and can approach the appropriate Court for the same.

4. Learned counsel further argues that instead of taking action against Respondents No.5 & 6 for raising illegal construction in the street and interfering or obstructing in the right of passage of the Petitioners, police



officials at PS: Prashant Vihar have sent an illegal notice dated 22.03.2022 to the Petitioners to join investigation and this is nothing but harassment. Having perused the notice dated 22.03.2022, annexed as Annexure P-5 to the petition, this Court finds that pursuant to a complaint received against the Petitioners vide DD No.80A dated 28.10.2021, they were called to join investigation. This Court finds no ground to conclude that the notice was sent with the intent to harass the Petitioners as it was only a notice to join investigation after a complaint was received against them, which is an expected and normal course of action followed by the police for investigation. Be that as it may, it was open to the Petitioners to challenge the notice in appropriate proceedings, if they were so aggrieved.

5. The third and the only other issue that arises in the present petition is whether this Court can issue directions to Respondents No.1 and 2 to take disciplinary action against the police officials of PS: Prashant Vihar for the alleged lapses in conduct of investigation. This issue is no longer *res integra*. The Supreme Court in ***Pramod Kumar Jha v. State of Bihar and Another, Criminal Appeal No. 1092/2002***, decided on 18.06.2008 and a Coordinate Bench of this Court in ***Rakesh Chand v. State of NCT of Delhi, 2015 SCC OnLine Del 14193***, have held that it is not a domain of the Court to give directions for initiation of disciplinary proceedings against a police official and/or to direct imposition of punishment, as this is the jurisdiction and prerogative of the concerned Disciplinary Authority.

6. Even otherwise, this Court has carefully perused the Status Report filed on behalf of the State in which it is stated that on receiving a PCR call vide DD No. 46A/48A dated 03.08.2021 in PS: Prashant Vihar regarding a quarrel, the concerned ASI Sunil Dutt visited the spot. Petitioner No.1 was



found injured and her MLC was got conducted, wherein the nature of the injury was opined to be 'Simple' and consequently, a non-cognizable report under Section 323 IPC was registered vide NCR No.09/2022. On 28.10.2021, a complaint was received from Pawan Kumar Garg alleging that Petitioners had obstructed the construction of his house and had broken the wall with an iron rod. Investigation was carried out and it was found that a Civil Suit was pending between the parties. Notices were sent to the office of the Sub-Registrar and the Department of Archives to find out the status of the property. Petitioners failed to join the enquiry in the aforesaid complaint. In the meantime, a video footage of the alleged incident on 03.08.2021 along with electricity bills of the property in question were provided by Pawan Kumar. Video footage reflected that the police officials on the spot were trying to pacify Petitioner No.1 but she went inside the house and came out few moments later with an injury on her forehead, though no person other than her could be seen going inside the house. It is stated that requisite action was taken at the spot and matter is under investigation.

7. In view of the aforesaid, this Court is of the view that Petitioners have been unable to make out a case for transfer of the enquiry to an independent investigating agency and the petition is accordingly dismissed along with pending applications, being devoid of merit.

JYOTI SINGH, J

MARCH 21, 2024/kks