



2024: DHC: 3528-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1347/2024**
DR. SUBHASH VIJAYRAN Petitioner
Through: Petitioner in person

versus

COMMISSIONER OF POLICE & ORS. Respondent
Through: Mr. Sanjay Lao, Standing Counsel
(Crl.), GNCTD with Mr. Shivesh
Kaushik and Mr. Abhinav Arya,
Advocates
ACP Vijay Nagar, Inspector Amul
Tyagi, SHO with SI Jai Parkash, P.S.
Farsh Bazaar

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Date of Decision: 01st May, 2024.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

1. Present public interest petition has been filed seeking conduct of investigation into the case (DD No. 84A, dated 28th March, 2024, P.S. Farsh Bazar, Shahdara District, Delhi) by an independent agency such as CBI. The Petitioner-in-person further prays for issuance of direction to the Respondent No. 1 to conduct the post-mortem examination of the deceased, Mohd. Rizwan son of Mehraj Nabi, by a panel of forensic doctors from one of the medical colleges in Delhi.

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2. The Petitioner-in-person states that on 28th March, 2024, an unknown dead body (which was later identified) of thirty-year-old man was recovered from a nallah in Shahdara, under jurisdiction of P.S. Farsh Bazar, which was preserved at Sabzi Mandi mortuary and fingerprints were taken for identification. He states that only on 25th April, 2024, i.e. after a gap of 28 days, the Respondent No. 3/Investigating Officer (IO) requested the Petitioner-in-person to conduct post-mortem of the deceased, notwithstanding the fact that the body was substantially decomposed, full of infection, with all the evidence lost in contrast to a fresh body. He states that Respondent Nos. 2 & 3 violated the Standing Orders of Delhi Police and the order dated 10th January, 2024 passed by this Court in W.P(C) No. 3242/2023, titled '**Dr. Subhash Vijayan vs. Commissioner of Police**', which mandates conducting of post-mortem examination within 72 hours.

3. He alleges that it is a routine practice of the IOs to request post-mortems after considerable delay, i.e., much later than 72 hours, thus destroying valuable evidence in the process.

4. Petitioner-in-person suspects that despite irrefutable and conclusive identification of the accused vide fingerprint report dated 10th April, 2024, the Respondent No. 3/IO wasted two more weeks in his so-called efforts to establish the identity of the deceased, by newspaper publications etc. He states that such a step was taken by Respondent Nos. 2 and 3 on the basis of incorrect statements of the father and brother of the deceased whereby they refused to identify the body. He further suspects that Respondent Nos. 2 & 3, by deliberate omissions and commissions, acted to hush up a possible murder case and in order to destroy all the incriminatory evidence, thereby rendering the post-mortem examination a mere formality.



5. The Petitioner-in-person states that he has not received any response to his representation dated 29th April, 2024 addressed to Respondent No. 1/Commissioner of Police with regard to delayed request for conduct of post-mortem of the deceased Mohd. Rizwan son of Mehraj Nabi.

6. Per contra, learned Standing Counsel (Criminal), Government of National Capital Territory of Delhi (GNCTD) states that the post mortem in the present case was delayed as the family members of the deceased had refused to identify the body even after a dossier had been prepared on the basis of finger print report. He states that the Respondents have no objection to the post mortem examination being conducted by a panel of forensic doctors by any medical college. He contends that the Petitioner without conducting a post mortem cannot possibly allege that the police is trying to hush up a possible murder case.

7. Since, transfer of investigation to Central Bureau of Investigation (CBI) is done only in the rarest of rare cases and as in the present case, a representation has been made to the Commissioner of Police by the Petitioner himself on 29th April, 2024, the present writ petition is disposed of with a direction to the Commissioner of Police to decide the Petitioner's representation dated 29th April, 2024 in accordance with law as expeditiously as possible preferably within one week. The Commissioner of Police while deciding the representation shall keep in mind the alleged breach of the standing order of the Delhi Police as well as the order dated 10th January, 2024 passed by this Court in W.P.(C) 3242/2023.

8. The Delhi Police is further directed to ensure that the post mortem examination of the deceased Mohd. Rizwan is carried by a panel of forensic doctors from any Government Medical College in Delhi forthwith.



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9. With the aforesaid directions, the present writ petition stands disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 1, 2024/msh

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