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

+ CRL.M.C. 2297/2020, CRL.M.A. 16282/2020

MOHD ARIF

.....Petitioner

Through: Ms. Geeta Luthra, Senior Advocate
with Ms. Anmol Sharma, Mr.
Rishabh Dahiya and Ms. Kamakshi
Gupta, Advocates.

versus

STATE (GOVERNMENT OF NCT OF DELHI)Respondent

Through: Ms. Richa Dhawan, APP for the State
with SI Mukesh Kumar, PS Delhi
Cantt.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **02.08.2024**

1. The present Petition had been filed on behalf of the petitioner under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the FIR No. 116.2018 dated 31.05.2018 registered at PS Delhi Cantt under Sections 279/304A IPC and subsequent proceedings emanating therefrom.
2. It is submitted that on 31.05.2018, the police had registered the FIR on the basis of the information received from Mr. Harsh stating that while he was coming down from Domestic Airport Flyover towards Subroto Park, one Swift Dzire bearing No. HR 55 AB 2957 Ola Cab white color was found in an accidental condition. The police reached at the place of accident but neither the driver nor the injured were found on the spot. There were no eyewitnesses available. The police then found Mr. Rashik Pandit had been



admitted *vide* MLC No. 300/05/2018 with remarks that after the first Aid he had been referred to Civil Hospital.

3. It is claimed that the offending vehicle was registered in the name of M/s Ola Fleet Technologies Pvt. Ltd. The petitioner herein had sold the performing rights of the vehicle to Mr. Naheem Chaudhary for Rs. 32,000/- and the Sale Agreement was duly executed on 30.12.2017 and the possession was handed over in February, 2018.

4. The petitioner has claimed that he was not driving the offending vehicle on the date of accident. He was under the employment as driver of the truck bearing No. JK 07 C3 2121. The IO had served the Notice under Section 133 of the Motor Vehicle Act, 1988 to the owner/OLA Fleet Technologies Pvt. Ltd. but they failed to respond to the Notice.

5. The petitioner has claimed that after three months from the date of accident, he was called upon for investigation and was subjected to torture, undue influence and threatened of FIR under Section 420 IPC on the pretext of selling/handing over the leased vehicle without consent of the registered owner i.e. Ola Cab. Left with no option, he made the statement without his free will, to the police. Instead of investigating the actual driver of the alleged vehicle, the IO has filed a Charge Sheet against the petitioner before the learned MM, Patiala House Courts on flimsy, makeshift and wobbly grounds.

6. The petitioner to establish his innocence, has relied on the CCTV footage, which according to him reveals that immediately after the accident, there were many cars that stopped at the place of the accident and there were two cars including the car bearing registration No. DL 1ZB 5991, which had three passengers wearing the Air Hostess uniform, who came out and ran to



help the injured from the accidental car. Simultaneously, the driver and the passenger of another car wearing the uniform of the Pilot, also came out from the car and ran for assistance.

7. It is submitted that it can be correctly identified from the CCTV footage and also with the help of the witnesses about the actual identity of the driver. However, the IO failed to conduct proper investigation due to which the main culprits are roaming free while the petitioner has been falsely implicated in this case.

8. It is further submitted that Mr. Videsh Poddar, driver of the Car bearing No. DL 1 ZB 5991 who took the injured to the hospital, has informed the petitioner that he had taken two persons to the hospital on the date of accident and could identify the driver, and that it was not the petitioner.

9. A *Compact Disk* has been claimed to have been filed with the Charge Sheet as the sole evidence but as per the CD itself, the identity of the driver is revealed and it can be comfortably identified in the CCTV footage.

10. It is therefore, submitted as the FIR dated 31.05.2018 and subsequent proceedings emanating therefrom, be quashed for want of proper investigation and also for ignoring the evidence which clearly reflects that the petitioner was not the offender.

11. *Learned Senior Counsel appearing on behalf of the petitioner* has vehemently pointed out that the photographs of the CCTV Footage and other evidence, to contend that petitioner has been falsely implicated in this case.

12. The *Prosecution* on the other hand, has contended that all the investigations have been conducted properly. It is further submitted that the Trial has been concluded and the case is at the stage of final arguments.



13. *Arguments heard on behalf of the parties.*

14. Essentially, it is the defense of the petitioner that he was not driving the offending vehicle at the time of the accident as he was driving a truck and was in Dehradun at the time of the accident. It has also been the claim of the petitioner that Mr. Videsh Poddar, the person who had taken the injured to the hospital, had also called him to inform about these requisite facts. Also, reference has also been made to some independent witnesses who had rushed to help the injured after the accident.

15. Considering the submissions made in the petition, it seems that the petitioner has some independent evidence in his defense for which he was having an opportunity to lead, at the time of the Trial which is now at the stage of final disposal. There is no merit in the present Petition and no further directions are mandated in the given circumstances.

16. The Petition is accordingly disposed of along with the pending Applications.

NEENA BANSAL KRISHNA, J

AUGUST 2, 2024/PT