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

+ **W.P.(CRL) 2223/2024 & CRL.M.A. 21774/2024**

RAVI

.....Petitioner

Through: Mr. Arjun Malik,
Ms. Mayuri Makhija,
Ms. Cherry Suri,
Ms. Nigar Khan &
Mr. Ummey K.,
Advocates

versus

STATE OF NCT OF DELHI & ORS.Respondents

Through: Ms. Nandita Rao, ASC
with Mr. Amit Peswani,
Advocate for the State
with Insp. Lakshmi
Chand, SI Mahavir Singh

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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26.07.2024

1. The present petition is filed under Article 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC'), *inter-alia*, praying as under:

“(i) Issue of Writ of Mandamus against the Respondents directing them to release Vehicle DL8SBM7948 in terms of order dated 21/08/2023 passed by the Ld. Trial Court currently presided by Sh. Ankit Karan Singh, MM-08/ West, Tis Hazari Court;

(ii) Issue of Writ of Mandamus against the Respondents directing completion of investigation in Case FIR No. 256/24 PS Paschim Vihar West and file Chargesheet within two weeks;

(iii) Issue Writ of Mandamus directing Ld. Trial Court of Sh. Ankit Karan Singh MM-08/ West, Tis Hazari Court not to grant more than two weeks to the Respondents to file final

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Chargesheet in Case FIR No. 256/24 PS Paschim Vihar West.



(iv) Issue Writ of Mandamus directing Respondent No. 2 to take action against Respondent No. 3 to 5 along with the then SHO PS Paschim Vihar West during May 2023 and any other erring official;

(v) Issue Writ of Mandamus directing Respondents to pay compensation and damages to the Petitioner towards unnecessary harassment and cost of litigation”

2. It is alleged that on 26.03.2023, the petitioner’s motorcycle ‘TVS Apache’ bearing registration number ‘DL 8 SBM 7948’ was stolen from the area in front of his house. On the basis of the theft allegation, FIR No. 9494/2023 dated 31.03.2023, was registered at Police Station Paschim Vihar West, Outer District, Crime Branch, Delhi, for the offence under Section 379 of the Indian Penal Code, 1860 (**‘IPC’**).

3. On 23.05.2023, the petitioner received a SMS in relation to the FIR, stating that the accused person, namely, Rahul, had been arrested. It is stated that the petitioner was also informed that the recovered vehicle was submitted with the malkhana of the Police Station, Paschim Vihar West.

4. In order to release the vehicle, the petitioner moved a *superdari* application before the learned Metropolitan Magistrate (hereafter the **‘Trial Court’**) and the same was allowed by an order dated 21.08.2023.

5. However, despite the order of the Trial Court, the vehicle was not released to the petitioner. It is alleged that when the petitioner went to the malkhana for the release of his vehicle, the same could not be found, either in the malkana or at the Police Station. The concerned official informed that the vehicle had been stolen from the malkana. Thereafter, the petitioner moved another application dated 19.09.2023, before the learned Trial



Court seeking the status report from the concerned Station House Officer ('SHO') in relation to the non-release of the vehicle.

6. The learned Trial Court considered the allegations of theft as well as the reports of the concerned SHO, Assistant Commissioner of Police and Deputy Commissioner of Police. By an order dated 06.03.2024, the learned Trial Court directed the concerned SHO to register a FIR against the persons involved and also directed that the investigation be conducted by a different police station.

7. In compliance with the order dated 06.03.2024, a preliminary enquiry was conducted and another FIR being FIR No. 256/2024 dated 08.03.2024, was registered at Police Station Paschim Vihar West, Outer District, Delhi, for an offence under Section 379 of the IPC.

8. The learned counsel for the petitioner submits that there has been inaction on the part of the police officials, Respondent Nos. 3 to 5, who have been taking divergent stands in respect of the location of his vehicle. He seeks that the investigation in relation to the FIR be concluded and the final chargesheet be filed within two weeks. He also seeks issuance of directions to the learned Trial Court to monitor the investigation.

9. It is also stated that the petitioner had filed an application under Right to Information Act, 2005, dated 10.05.2024. In response to this, it was informed that the investigation was ongoing and the relevant information cannot be given before the conclusion of the investigation.

10. The learned Additional Standing Counsel ('ASC') for the State submits that the chargesheet and the seizure memo has been filed in FIR No. 9494/2023 and is currently before the learned Trial Court.



11. It is stated that the Section 42 Report dated 14.05.2024 and Status Report dated 21.06.2024 filed before the learned Trial Court are already on record. She submits that as per the reports, the investigation of the case stands transferred from the Police Station Paschim Vihar West to DIU, Outer District. The case file for investigation was received on 16.04.2024 and at present domestic enquiries are ongoing. She also submits that the investigation will be completed within the next four weeks.

12. It is the case of the petitioner that his stolen vehicle was found by the Police, however, the vehicle was stolen once again from the malkhana. He alleges involvement of the police officials, Respondent Nos. 3 to 5 in the theft of his vehicle.

13. Admittedly, these allegations have been considered by the learned Trial Court, who has already directed the registration of FIR. Further, FIR No. 256/2024 has also been registered on 08.03.2024 and the investigation is being conducted by another police station.

14. It is relevant to note that while the petitioner had filed a complaint against Respondent Nos. 3 and 4 for their negligence, he filed no such complaint against Respondent No.5.

15. The learned ASC for the State points out that the police authorities have also undertaken a vigilance enquiry in the matter. It was found that there was a lapse on part of Respondent No.3 (IO of FIR No. 9494/2023) as he did not join the enquiry despite repeated requests and also did not meet the complainant/petitioner and also Respondent No.4 for the theft of the vehicle from the police station as he did not give any proper explanation about the whereabouts of the recovered vehicle deposited by the IO.

16. It is submitted that departmental action was recommended



against Respondent nos. 3 and 4 due to the same. Further, departmental action was also recommended against another police officer for not taking proper action on the petitioner's PCR call regarding the theft of his vehicle and the concerned SHO for supervisory lapse on his end.

17. Insofar as Respondent No.5 is concerned, it is fairly pointed out that his role in seizing the motorcycle has also been duly enquired into.

18. The proceedings in relation to the vigilance enquiry are currently underway. Departmental action has also been recommended against Respondent Nos. 3 and 4. In view of the same, when the police authority has already undertaken a vigilance enquiry into the role of Respondent Nos. 3 to 5, this Court does not consider it apposite to pre-empt the conclusion of the proceedings and override the same by passing directions for action against Respondent Nos. 3 to 5 at this stage.

19. Evidently, the whereabouts of the petitioner's vehicle are currently unknown. In such circumstances, this Court cannot pass any directions against for the release of a missing vehicle.

20. Needless to say, whenever the petitioner's vehicle is recovered, it would be open to the petitioner to move an appropriate application before the concerned Court for release of the same.

21. Further, given the statement of the learned ASC that the investigation will be completed within the next four weeks, this Court does not find it appropriate to give any further directions in regard to the time frame as prayed by the petitioner.

22. However, the petitioner is at liberty to approach the learned Trial Court to seek appropriate remedies, in case any grievance remains.



23. In view of the above, no orders are required to be passed at this stage and the present petition is dismissed.

AMIT MAHAJAN, J

JULY 26, 2024
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