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

+ **CRL.M.C. 6232/2024**

VIKAS SINGHAL

.....Petitioner

Through: Mr.Sandeep Mishra, Mr.Surbhit
Nandan, Mr.Aryan Kasana and
Mr.Nundaka Vyas, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr.Mukesh Kumar, APP for the State
alongwith SI Suraj, P.S.-Hauz Khas

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

14.11.2024

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1. The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the petitioner seeking the following reliefs:-

“a. Quash the order dated 07.05.2024 passed by Ms. Vijayshree Rathore, Ld. Metropolitan Magistrate, South District, Saket Courts Complex, Saket, New Delhi and release the articles mentioned in seizure memo dated 30.10.2023 and 27.12.2023

b. Pass such other/further orders as this Hon’ble Court may deem fit and proper in the interest of justice.”

2. The perusal of the record indicates that during the course of the investigation, the Investigation Officer has seized the various articles vide Seizure Memos dated 30.10.2023 and 27.12.2023. Upon perusal of the Seizure Memo dated 27.12.2023, it is found that the



Investigation Officer has seized each and every article lying in the house under Section 102 of Cr.P.C. To take an example, Sofas, clothes, machines, furniture, mattresses, electronic items, one bullet motorcycle, *balti*, round table, mirror, lamp, pot, two *gathri* of bed sheets, 6 pieces of clothes etc.

3. At the outset, this Court is constrained to observe that the act of the Investigating Officer in seizing each and every article from the house of the accused reflects a gross non-application of mind. Such a course of action, which appears to have been carried out without proper deliberation or adherence to established legal principles, undermines the safeguards enshrined in the procedural law. Section 102 of the Code of Criminal Procedure, 1973, empowers the police to seize property that may be connected to the commission of an offense. However, the exercise of this power is not unfettered and is subject to the condition that the property seized must have a direct nexus with the alleged crime. In *State of Maharashtra v. Tapas D. Neogy* (1999) 7 SCC 685, the Supreme Court unequivocally held that the seizure of property must be linked to the investigation of the offense and that arbitrary seizure, without establishing such a connection, would render the action unlawful.
4. Furthermore, the doctrine of proportionality mandates that investigative authorities exercise their power reasonably and refrain from adopting measures that cause undue harassment or infringement of the rights of individuals. The sweeping seizure of all belongings from the residence of the accused, without due assessment of their relevance to the alleged offense, amounts to a clear violation of this



principle. In *Sundar Singh v. State of U.P.* (AIR 1956 All 706), the Allahabad High Court emphasized that seizures unrelated to the crime in question constitute an abuse of power, and such actions cannot be countenanced under the law.

5. The arbitrary seizure also raises concerns regarding the infringement of the fundamental rights of the accused. Article 21 of the Constitution guarantees the right to life and personal liberty, which encompasses the right to privacy and property. In *Maneka Gandhi v. Union of India* (1978) 1 SCC 248, the Apex Court expanded the scope of Article 21 to include procedural fairness and reasonableness. Any deprivation of property or invasion of privacy must be carried out in accordance with the principles of natural justice and the established procedure. In the instant case, the seizure of "each and everything" from the residence of the accused, without discernible justification or due process, prima facie violates these constitutional safeguards.
6. Additionally, the supervisory officers entrusted with overseeing the investigation are equally culpable for failing to ensure that the actions of the Investigating Officer are in compliance with the law. Lastly, the doctrine of nexus, as reiterated in *State of Punjab v. Baldev Singh* (1999) 6 SCC 172, requires that the seized articles bear a direct and reasonable connection to the alleged offense. The seizure in the present case, which appears to be indiscriminate and lacks specificity, fails to satisfy this fundamental requirement. Such an action, unless substantiated with cogent evidence, is liable to be struck down as arbitrary and contrary to the principles of natural justice.



7. In light of the foregoing, this Court is of the prima facie view that the seizure carried out by the Investigating Officer is not only excessive but also violative of procedural and constitutional safeguards. It is imperative for investigative authorities to exercise their powers judiciously and within the ambit of the law to maintain the sanctity of the investigative process and uphold the rights of individuals.
8. Let entire articles (84 items) seized vide Seizure Memo dated 27.12.2023 be released to the petitioner.
9. With the aforesaid direction, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 14, 2024

Dy/ht...