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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6864/2024

DR. HANS U NAGAR

....Petitioner

Through: Mr. Pankaj Vivek & Mr.
Karan Chaudhary,
Advocates alongwith
Petitioner-in-Person.

versus

THE STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
SI Amit (P.S. Crime
Branch, NR-I).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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12.09.2024

CRL.M.A. 26405/2024 (*exemption from filing certified copies of annexures*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 6864/2024

3. The present petition is filed challenging the order dated 08.05.2024 passed by the learned Additional Sessions Judge ('ASJ'), South, Saket Courts, New Delhi, in CR. REV. NO. 336/2022 (hereafter '**impugned order**').
4. The learned ASJ, by impugned order, dismissed the revision petition filed by the petitioner challenging the order dated 14.09.2022 pursuant to which the protest petition filed by the petitioner was disposed of, accepting the report filed by the State.
5. The FIR No. 149/2018 dated 29.04.2018, was registered at

Police Station Fatehpur B for offences under Sections 307/120B/34 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959.



6. The FIR was registered on a complaint given by the petitioner alleging that there was an attempt on his life by an armed gunmen and the petitioner suffered bullet injuries. The petitioner claims that the investigation was carried out in a casual and careless manner. The police after the investigation filed an alleged untrace report purportedly under Section 173 of the Code of Criminal Procedure, 1973 ('CrPC') which led to the petitioner filing a protest petition. The petitioner averred that certain vital aspects were not properly investigated.

7. The learned Metropolitan Magistrate ('MM'), by order dated 14.09.2022, held that the report filed by the State is an untrace report and not a cancellation/ closure report and mere acceptance of the said report does not mean that the investigation has ended and as and when something is found by the Investigating Officer, the case can be reopened and further investigation can be done.

8. The learned counsel for the petitioner submits that the procedure adopted by the State as well as the learned MM is unheard of.

9. He submits that in terms of Section 173 of the CrPC, the report is to be filed after the completion of the investigation whereas in the present case, as held by the Magistrate, the investigation is still open.

10. He submits that such report cannot be termed as report under Section 173 of the CrPC and if the report is not the culmination of the investigation, then the petitioner being the complainant has every right to point out the lacunas and appropriate order has to be passed.



11. The learned Additional Public Prosecutor for the State, at the outset, submits that the petitioner has the liberty to file an appropriate application under Section 156 of the CrPC seeking investigation in regard to the aspects which he feels have been left out by the Investigating Officer.

12. He submits that the concerned Magistrate after calling for the report from the Investigating Officer can pass an appropriate order.

13. He further submits that the present petition would be treated as an application by the petitioner and if need arises, further investigation would be carried out.

14. In view of the above, the learned counsel for the petitioner, on instructions, seeks liberty to withdraw the present petition and file an appropriate application under Section 156 or under other relevant provisions of the CrPC before the learned Trial Court. Needless to say, the petitioner is at liberty to approach this Court in case any grievance remains in future.

15. The present petition is dismissed as withdrawn with the aforesaid liberty.

AMIT MAHAJAN, J

SEPTEMBER 12, 2024

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