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

+ **W.P.(CRL) 3151/2024 & CRL.M.A 30531/2024**

NADEEM UL HAQ

.....Petitioner

Through: Mr. Jibran, Advocate (Through VC).

versus

STATE GOVT OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Anand V Khatri, ASC for the
State along with SI Omkant, PS-
Hauz Qazi.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

18.10.2024

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1. The instant petition under Article 226 of the Constitution of India, 1950 (hereinafter as the “Constitution”) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter as the “BNSS”) (earlier Section 482 of the Code of Criminal Procedure, 1973 “Code”) has been filed on behalf of the petitioner for issuing a writ of mandamus directing the respondent no. 1 to 3 to provide adequate police protection to the petitioner.

2. Learned counsel appearing on behalf of the petitioner submitted that he and his family have been receiving death threats from two persons namely, Mr. Fazal-Ur-Rehman and Mr. Akhdas i.e., respondent no. 4 and 5, respectively. It is further submitted that the said persons have enmity with the petitioner since a long period of time.



3. It is submitted that on 17th September, 2024, at around 7:00 PM, the respondent nos. 4 and 5 stopped the petitioner near Ballu's tube well, near Police Chowki - Gautam Vihar and started abusing the petitioner, kicked his scooter and threatened to kill him. Thereafter, an emergency call on 112 was made by the petitioner *vide* DD No. 105/A and the Police Station – New Usmanpur took the situation into consideration. Accordingly, an NCR number 077/2024 dated 20th September, 2024 was registered.

4. It is submitted that due to the inaction on part of the police officials of the concerned police station, the petitioner filed a complaint to the respondent no. 2 i.e., the Commissioner of Police, DCP Central, Delhi on 30th September, 2024, however, no protection was given by the police to the petitioner.

5. It is submitted that the petitioner is fearful of his life due to the threats given by the respondent nos. 4 and 5, and therefore, his fundamental right under Article 21 of the Constitution of India is violated due to the inaction of the respondent no. 2 and 3. Hence, the instant petition is filed by the petitioner and it is prayed that the same may be allowed.

6. *Per Contra*, the learned ASC appearing on behalf of the State submitted that upon receipt of the emergency call of the petitioner, a case bearing NCR number 077/2024 dated 20th September, 2024 was immediately registered.

7. It is submitted that the police protection to the petitioner cannot be granted as no sufficient proof was furnished with respect to the death threats received by the petitioner and the allegations against the respondent nos. 4 and 5. Therefore, the instant petition involves a question of fact which cannot be dealt with by this Court under its writ jurisdiction.



8. In view of the foregoing submissions, it is prayed that the instant petition may be dismissed being bereft of any merits.

9. Heard learned counsel for the parties and perused the record.

10. At this juncture, it is imperative to note that the powers envisaged under Article 226 of the Constitution as well as Section 528 of the BNSS (Section 482 of the Code) are wide in nature and hence, the same must be used sparingly, carefully and in exigent cases. When Article 226 of the Constitution is invoked, an appropriate writ can be issued to any person or authority when there is a violation of fundamental rights or for any other purpose.

11. The Hon'ble Supreme Court in the case of ***Pepsi Foods Ltd. vs. Special Judicial Magistrate, (1998) 5 SCC 749***, also observed that the power conferred on the High Court under Articles 226 of the Constitution and under Section 482 of the Code have no limits, however, with more power, more due care and caution is to be exercised.

12. It is also a settled principle of law that the Courts while exercising its writ jurisdiction can only deal with the questions of law and cannot go into the questions of facts.

13. Therefore, the limited question for adjudication before this Court is whether there was any inaction on the part of the respondent nos. 1 to 3, thereby necessitating the interference of this Court.

14. In the present case, it is observed that the concerned police station took the matter into consideration upon receipt of the petitioner's emergency call, thereby registering a case bearing NCR number 077/2024 dated 20th September, 2024.

15. At this juncture, it is pertinent to mention the observations of the



Hon'ble Supreme Court made in the case of ***P.R. Murlidharan v. Swami Dharmananda Theertha Padar***, (2006) 4 SCC 501, wherein the Hon'ble Court dealt with the interference of the writ court in the matters pertaining police protection. The relevant paragraph of the same is as follows –

“12. It is one thing to say that in a given case a person may be held to be entitled to police protection, having regard to the threat perception, but it is another thing to say that he is entitled thereto for holding an office and discharging certain functions when his right to do so is open to question. A person could not approach the High Court for the purpose of determining such disputed questions of fact which were beyond the scope and purport of the jurisdiction of the High Court while exercising writ jurisdiction as it also involved determination of disputed questions of fact.”

16. It was observed in the aforesaid case that a writ of mandamus can be issued directing the police authorities to provide police protection only when the Court is satisfied that there exists a threat to the person seeking such relief and when the authorities fail to perform its duty.

17. In the present case, it is observed that the concerned police officials have discharged their duty in taking the matter into consideration by registering a case bearing NCR number 077/2024 dated 20th September, 2024. Moreover, upon perusal of the record, it is further observed that the petitioner has failed to provide any sufficient proof regarding the receipt of such death threats from the respondent no. 4 and 5, thereby involving a question of fact.

18. In light of the same, it is observed that the police protection cannot be granted when there is no sufficient proof furnished by the petitioner against the respondent nos. 4 and 5 and therefore, there is no such inaction on part



of the respondent nos. 1 to 3.

19. In light of the aforesaid discussions and the law laid down by the Hon'ble Supreme Court, this Court is of the view that the petitioner failed to satisfy this Court by not providing any sufficient proof pertaining to the alleged death threats or establishing any significant risk against his life and liberty. Furthermore, the instant matter is not a fit case to exercise its powers under Article 226 of the Constitution or Section 528 of the BNSS (Section 482 of the Code) and in view of the same, this Court does not find any merit in allowing the instant petition.

20. Accordingly, the instant petition is dismissed along with pending applications, if any.

CHANDRA DHARI SINGH, J

OCTOBER 18, 2024

Rk/mk

Click here to check corrigendum, if any