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

+ CRL.REV.P. 306/2008 & CRL.M.A. 6510/2008

R.P.MITTAL & ANR

..... Petitioners

Through: Dr. Ravinder Kumar
Anand, Advocate

versus

STATE & ANR

..... Respondents

Through: Mr. Utkarsh, APP for the
State
Mr. Sandeep Mittal R-2

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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23.01.2024

1. The present petition is filed under Sections 397 & 401 read with Section 482 of the Code of Criminal Procedure, 1973, seeking setting aside of the order dated 06.05.2008 passed by the learned Metropolitan Magistrate in Complaint bearing No. 1132/1/08 titled '*Ashok Mittal v. State*' (hereafter '**the impugned order**').

2. The learned Metropolitan Magistrate after considering the complaint filed by Respondent No. 2/complainant, directed SHO, Police Station Connaught Place to register an FIR under the appropriate sections and investigate the matter as per law. It was noted that the allegations in the complaint given by Respondent No. 2 discloses commission of cognizable offences.

3. The learned counsel for the petitioners submits that the present FIR was the outcome of several litigations pending between the parties. The said litigations are pending on different issues including various criminal complaints.

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4. He submits that the present complaint was lodged in order to harass the petitioners. He submits that no such incident, as alleged in the complaint, happened on 11.04.2008. He submits that the MLC dated 11.04.2008 does not support the case of the complainant. He further submits that the complainant has not produced any evidence in support of his allegations.

5. He submits that no specific reference to any section has been made about commission of any cognizable offence in the impugned order. He further submits that the initial statement given by the complainant on 11.04.2008 does not disclose commission of any cognizable offence, and the supplementary statement given on the same date had substantial improvements and cannot be looked into. The supplementary statement given by the complainant is reproduced hereunder:

*“The SHO
PS Connaught Place
New Delhi*

Sub: Complaint against Mr. R.P. Mittal, Mr. Salil Gupta and their 15-20 accomplices for the offences committed under Sections 342/323/506/397 and 307 IPC r/w Section 34/120B, IPC.

Sir,

In furtherance of my earlier statement today, when I came back to my room and sitting and looking the papers/catalogues, Mr. Salil Gupta and Mr. R.P. Mittal alongwith 15-20 unknown persons forcibly entered into my room and starting yelling at me to get of the premises or face dire consequences. They threatened me that if I do not leave the premises, I would be eliminated and my deadbody would be thrown into gutter. Thereafter the said Mr. Salil Gupta and R.P.Mittai alongwith his said accomplice locked the door from inside and asked their men to kill me. On this Salil Gupta took out a big knife and placed on my neck thereafter he with the help of R.P. Mittal snatched the brief case, containing the high court orders and Rs.5 Lakhs cash and other relevant and important documents, from me, which I was carrying. Mr, Salil Gupta and Mr. R.P. Mittal took out the

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cash from the brief case and torn the court orders and tossed in the air with their sarcastic comments. They also destroyed my various relevant and important documents contained in the said brief case as also snatched my gold chain weighing about 5 tolas and forcibly took a diamond ring worth Rs.20 Lakhs from my finger. They alongwith their said accomplices starting thrashing me with sticks and kicks on my abdomen, chest and head in order to eliminate me. They have also torn all clothes on my person.

Under the fear to my life, I started making hue and cry and somehow managed to come out of the room and ran towards outside where my car was parked. When I managed to come out of the room, I saw SI Jitender and Head Constable Bijender Kumar standing near the main gate and watching and smiling at me. Salil Gupta and R.P. Mittal alongwith their henchmen also chased me and again they locked the main gate with the help of their accomplices the said two police personnel, instead saving my life, remained mute spectators of the entire incident. I managed to call up “100” for assistance and help.

Then the group of people headed by R.P. Mittal and Salil Gupta started thrashing bodyguard as well. I and my body guard ran towards my car (BMW bearing Regn No. DL3CAY4690). They also pulled out the driver of the car in order to prevent him to take me away from the site. They also injured my driver and bodyguard. However, in the meantime PCR staff came and saved me, my bodyguard and the driver of the car from their clutches. In the meantime, some Press People with cameras came to the site to record and report the incident. To my utter shock and surprise the aforesaid two police personnel SI Jitender and High Court Bijender Kumar stopped the press people stopped from taking any clipping and photographs of my ramshackle condition in the said incident. This forced me to think that the said police personnel were working at whose behest?

Under the facts and circumstances, you are requested to kindly register a case under section 342/323/506/397 and 307IPC r/w section 34/120B, IPC against the aforesaid persons, namely Salil Gupta and Mr. R.P. Mittal and their accomplices.”

6. It is alleged by the complainant that no action was taken by the police officials which led to filing of the complaint under Section 156(3) CrPC before the learned Magistrate.

7. The Hon’ble Supreme Court in ***Lalita Kumari v. Govt. of U.P : (2014) 2 SCC 1*** laid down the guidelines with respect to



the duties of the police officials on receipt of the information disclosing commission of the cognizable offences, and registration of FIR, and held as under:-

“Thus, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR”.

8. From a bare perusal of the complaint, it is seen that it has been specifically alleged that on 11.04.2008, the petitioners along with 15-20 unknown persons forcibly entered the complainant's room. It is alleged that the petitioners threatened the complainant that he would be eliminated and his dead body would be thrown into gutter. They locked the door from inside and asked their men to kill the complainant. Petitioner No.2/ Mr. Salil Gupta also placed a knife on the complainant's neck. The allegations clearly disclose the commission of cognizable offences.

9. The learned counsel for the petitioners submits that there is no evidence that any such event has ever happened.

10. This Court is, however, of the opinion that the same is a matter of further investigation. At the stage of registration of an



FIR, the defence of the accused is not a relevant factor.

11. In view of the above, the present petition is dismissed.

AMIT MAHAJAN, J

JANUARY 23, 2024

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