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

+ **W.P.(CRL) 4031/2024 & CRL. MA 38858/2024**

**PRIYANKA JAISWAL & ORS.**

.....Petitioners

Through: Mr. Shaitendra Mani Tripathy, Mr.  
Praveen Kumar Mishra, Ms. Pooja  
Shilpkar and Mr. Satish Kumar,  
Advocates.

versus

**GOVT. OF NCT OF DELHI & ANR**

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel  
(Crl.) for the State with SI Aasish  
Malik PS South Rohini, Delhi  
(M:8512892592).

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**23.12.2024**

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1. By way of present petition, the petitioners seek quashing of the FIR No.0260/2024 registered under Sections 325/506/34 IPC and Section 92(B) of the Rights of Persons with Disability Act, 2016 at PS Rohini, Delhi.
2. The only two grounds raised by the petitioners are that, firstly, it is only after registration of *Kalandra* under Section 107/150 Cr.P.C., the present FIR has been registered with respect to the same incident only to harass the petitioners. The second ground is that the FIR was registered after an inordinate delay of 70 days.
3. The petition is opposed by learned Standing Counsel (Crl.) for the State who submits that the incident pertains to 21.05.2024 and on which date



the complainant was also medically examined vide MLC conducted at Dr. BSA Hospital. It is stated that though the *Kalandra* was filed on account of multiple complaints pending between the parties, the aforesaid FIR was not registered for want of opinion on the MLC, which was provided on 25.07.2024 and the present FIR came to be registered on 30.07.2024.

4. I have heard learned counsel for the parties and gone through the records.

5. The dispute in the present case has arisen between the families of one *Ram Sagar Jaiswal* and petitioner No. 2, who are brothers and live in the same building. While the family of *Ram Sagar Jaiswal* lives on the ground and first floor, petitioner No.2 and his family live on the second and third floor. The families have been in dispute over the use of the common passage and stairs. A civil suit No. 47 of 2022 has also been filed by petitioner No.2 which is stated to be pending. Petitioner No. 3 had also previously made complaints dated 15.09.2021 and 16.08.2022 against the complainant and his family members to the concerned SHO.

On 21.05.2024, an altercation took place between the parties and *Yogesh S/o Ram Sagar Jaiswal* was injured in the incident. A complaint was filed by *Yogesh* against the petitioners that they have beaten him and his wife pursuant to which the impugned FIR came to be registered. Another complaint vide DD No. 57A dated 22.05.2024 was made by petitioner No.3 that *Ram Sagar Jaiswal's* family members were the aggressors who had beaten her and petitioner No.4 and when petitioner No.1 and 2 tried to intervene, they were beaten as well. A complaint dated 23.05.2024 was made by the petitioner No.4 as well.

A *Kalandra* under Section 107/150 CrPC was made vide DD No 73A



dated 23.05.2024 and the same was sent to Special Executive Magistrate, Rohini Court for further necessary action. An order for *Kalandra* dated 31.05.2024 was made by the Special Executive Magistrate to execute bond under Sections 107/117 Cr.P.C. of sum of Rs 10,000/ each by both the parties for maintaining good conduct in future.

6. The power of Executive Magistrate to initiate *Kalandra* proceedings can be traced back to Section 107 Cr.P.C. This section states that if the Executive Magistrate is satisfied that a person is likely to commit any such act which may cause breach of peace or disturbance of public tranquillity, or may do any wrongful act which may occasion to a breach of peace or disturbance of public tranquillity, and he is of the opinion that there are sufficient grounds for proceeding, then he may require such person to show cause as to why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding one year. The purpose of *Kalandra* proceedings is that it can be used as a tool by the Executive Magistrate for maintaining the peace in an area. The object of Section 107 Cr.P.C. is preventive justice and the proceedings are not punitive in nature. A reference may be made to the decision of Supreme Court of India in Rajender Singh Pathania v. State (NCT of Delhi), reported as **(2011) 13 SCC 329** wherein it was held that:-

*17. The objects of Sections 107/151 CrPC are of preventive justice and not punitive. Section 151 should only be invoked when there is imminent danger to peace or likelihood of breach of peace under Section 107 CrPC. An arrest under Section 151 can be supported when the person to be arrested designs to commit a cognizable offence. If a proceeding under Sections 107/151 appears to be absolutely necessary to deal with the threatened apprehension of breach of peace, it is incumbent upon the authority concerned to take prompt action. The jurisdiction vested in a Magistrate to act under Section 107 is to be exercised in an emergent situation.*



On the other hand, the registration of FIR is necessary for initiation of the criminal law process. If the investigation results in the finding that an offence may have been committed, it may result in penal consequences. An FIR is registered with respect to a specific offence and the purpose is determination of guilt of an accused. The purpose of registration of FIR has been elucidated by a Constitutional Bench of the Supreme Court in Lalita Kumari v. State of U.P., reported as **(2014) 2 SCC 1** wherein it was held that:-

***Significance and compelling reasons for registration of FIR at the earliest***

*93. The object sought to be achieved by registering the earliest information as FIR is inter alia twofold : one, that the criminal process is set into motion and is well documented from the very start; and second, that the earliest information received in relation to the commission of a cognizable offence is recorded so that there cannot be any embellishment, etc. later.*

7. Thus, it is evident that the two proceedings are vastly different in their intent and scope. Though both proceedings may have been initiated on the basis of same facts, they seek to achieve different things. Merely because a *Kalandra* order has been passed by the Special Executive Magistrate, the same would not amount to a bar on the registration of FIR or merit its quashing. In so far as the delay in the registration of FIR is concerned, it has been stated by learned Standing Counsel (CrI.) that the same was due to want of MLC opinion. Thus, the delay is not attributable to the complainant and the FIR cannot be quashed on this account either.

8. In view of the aforesaid, I find no ground to entertain the present



petition and the same is accordingly dismissed along with pending application.

**MANOJ KUMAR OHRI, J**

**DECEMBER 23, 2024/*rd***