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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3499/2018 & CRL.M.A. 47408/2018 (Stay), 2787/2019
(for amendment)

MOHD. HASHIR JAVED QURESHI & ANR. Petitioners

Through: Mr. Shiv Chopra, Ms. Aadhyaa
Khanna, Mr. Siddharth Arora & Mr.
Akshij Rohmetra, Advocates
alongwith father and sister of the
petitioners in person.

versus

STATE

..... Respondent

Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) for the State with Ms.
Priyam Aggarwal & Mr. Abhinav
Kumar Arya, Advocates.
SI Pancham Kumar, P.S. Sadar Bazar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

07.05.2024

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1. The present writ petition under Article 227 read with Articles 226/14/21/22 of the Constitution of India read with Section 482 of the Cr.P.C. seeks the following prayers:

“(a) Set aside/ quash the order dated 15.10.2018 passed by the Court of Ms. Sonam Singh, Tis Hazari Courts, Delhi in the case FIR No. 745/2015, P.S. Sadar Bazar, Delhi u/s 452/354B/323/506/34 IPC, titled as State Vs. Mohd. Hashir Javed, in the interest of justice.

(b) Drop the proceedings under Section 82 Cr.P.C. issued against the unsound mind petitioners, in the interest of justice.

(c) Constitute a Board consisting of Doctors from G.B. Pant Hospital, AIIMS and IHBAS because the treatment of the petitioners is going on in these Hospitals or any other Hospitals as this Hon'ble Court may



deem fit and proper for the conduction of medical examination of the unsound mind petitioners, in the interest of justice.

(d) Pass appropriate/ directions against the biased IO/ SI Prakash, SI Ashish, both at P.S. Sadar Bazar, Delhi, Court reader Prem Chand, Niab Court (Constable) Rohtash etc., Court staff of Trial Court, false reporting Doctors of IHBAS i.e. Dr. Sidhartha Maheshwari, Dr. Deepak Kumar, Dr. Om Prakash, Dr. Chanchal, Medical record Officer, Mr. R.C. Sharma and his staff of IHBAS i.e. Ms. Sandhya;

(e) Pass any other or further order/ direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favour of the petitioners, in the interest of justice.”

2. Learned counsel appearing on behalf of the petitioners, on instructions from father of the latter, who is present in Court today, submits that prayers (b) and (d) are not being pressed at this stage as an appropriate application is pending before the Court of competent jurisdiction for disposal and thereby, seeks leave to pursue the said application. So far as the prayers (a) and (c) is concerned, it is pointed out that vide order dated 15.10.2018, the Learned Metropolitan Magistrate, Central, Tis Hazari Courts, in FIR No. 754/2015, under Sections 323/354B of the IPC, registered at P.S. Sadar Bazar, had given directions to the petitioners to appear before the Director, IHBAS on 12.11.2018 at 10 AM, for their examination and for submission of a medical report. Learned counsel for the petitioners submits that the said order had contained another direction which was that the Investigating Officer shall take police custody of the present petitioners and thereafter produce the petitioners for examination before IHBAS. It is the grievance of the petitioners that the direction with regard to the latter being produced before IHBAS in police custody was not required and the petitioners are ready and willing to appear before the Director IHBAS for medical examination in terms of the aforesaid order.



3. Status report has been handed up in Court today and is taken on record.
4. Learned Standing Counsel for the State submits that the plea taken by the present petitioners is false. It is also pointed out that several cases have been registered against the petitioners and in order to avoid their lawful prosecution, they are taking the present stand.
5. Be that as it may, the learned counsel for the petitioners, on instructions from the father of the latter, submits that the petitioners shall appear before the Director, IHBAS for their medical examination on the date so fixed, alongwith their medical records.
6. In view of the above, the Director, IHBAS is directed to appoint a Board of senior doctors to examine the petitioners and submit the report to the concerned Metropolitan Magistrate within 15 days from the said examination.
7. The present matter is remanded back to the concerned Metropolitan Magistrate. The petitioners are directed to appear through video conferencing on 15.05.2024 at 02:00 PM before the concerned Learned Metropolitan Magistrate.
8. In the meantime, the Investigating Officer, shall co-ordinate with the Director, IHBAS for setting up the Medical Board and inform the Learned Metropolitan Magistrate of the date fixed. The Learned Metropolitan Magistrate shall inform the petitioners about the said date in pursuance of which, they shall appear before the said Board for the medical examination.
9. In view of the above, prayer (b) and (d) are dismissed as withdrawn with liberty to pursue the application pending before the Learned Metropolitan Magistrate. With respect to prayer (a) and (c), the same are



disposed of by way of the aforesaid directions.

10. The present petition is partly allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. Copy of this order be sent to the concerned learned Metropolitan Magistrate for necessary information and compliance.
13. Copy of this order be sent to the Director, IHBAS for necessary information and compliance.
14. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

MAY 07, 2024/bsr

Click here to check corrigendum, if any