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

+ CRL.M.C. 3274/2025, CRL.M.A. 14430-14431/2025

RAVI KUMAR SINGH

.....Petitioner

Through: Mr. Vikas Pahwa, Sr. Advocate with
Mr. Vikas Arora, Mr. Prabhav Ralli,
Ms. Sanskriti Gupta, Ms. Radhika
Aroa and Mr. Syed Asif Iqbal,
Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Shoaib Haider, APP for the State
with Insp. Jeet Singh SHO and W/SI
Sakshi Tanwar P.S. Sarita Vihar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

08.05.2025

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1. A Petition under Section 528 BNSS has been filed on behalf of the Petitioner for expunging the extra Judicial remarks made against the Petitioner in the Orders dated 25.03.2025, 07.04.2025 and 03.05.2025 by learned ASJ (FTSC) POCSO Act, South East District, Saket Courts in SC No.204/2021 in case FIR No.174/2019, P.S. Sarita Vihar.

2. It is submitted that in the aforesaid matter the victim was directed to be served through DCP, South-East vide Order dated 25.01.2025. The Report dated 25.03.2025 from the office of DCP was placed before the learned Trial Court mentioning that the victim has been served. However,



along with the Report the Report of Const. Sunni Yadav was also submitted, wherein it was mentioned that the brother of the victim was found present at the given address who disclosed that the victim had not been staying at the aforesaid address and he does not know her whereabouts and that he would appear and inform the learned Court accordingly.

3. It is submitted that though it was reported that the victim has been served, but the detailed Report of Const. Sunni Yadav annexed, clearly reflected the actual factual position.

4. The learned ASJ vide Order dated 25.03.2025 sought an explanation from the DCP about factually incorrect reporting of the summons having been served. The Reply dated 01.04.2025 was submitted, wherein the lapses were admitted to have been noticed on the part of the Process Server and the concerned dealing Clerk from the Legal Cell, and disciplinary action was initiated against him.

5. **The learned Trial Court on 07.04.2025** recorded that the Report dated 01.04.2025 has not been forwarded by Joint Commissioner of Police. It was further observed that the Petitioner had failed to apply his mind and a mechanical report has been filed with the observation about the lapses on the part of subordinates and that there was no fault of Process Server Const. Sunni Yadav.

6. The learned ASJ requested Commissioner of Police, Delhi Police to examine/re-access the competence of the Petitioner who continued to officiate the office of DCP *“and if he is found incompetent, then a suitable inquiry be initiated against him for not complying with the specific directions of the Court”*.

7. A Notice was issued to Commissioner of Police and a copy was sent



to Additional Commissioner of Police and Joint Commissioner of Police and the Petitioner.

8. The matter was posted for 01.05.2025 for the Report of the Commissioner of Police as well as for the Prosecution Evidence.

9. A Reply dated 30.04.2025 on behalf of Commissioner of Police was submitted before the Court, wherein it is mentioned that in terms of Section 66 BNSS, since the copy of the Summon was left with the brother of victim, it was considered as served. It was an erroneous endorsement by Const. Sunni Yadav as Section 66 BNSS would come into play only if the victim was residing with the brother and Const. Sunni Yadav failed to take reasonable efforts to trace the victim.

10. The Report was forwarded by SHO, P.S. Sarita Vihar mechanically and even the Dealing Clerk, Legal Cell, failed to properly vet the Report of the Process Server. It was also mentioned that the Compliance Report with approval of Joint Commissioner of Police was submitted before the Court on 07.04.2025.

11. It was further stated that the lapses occurred at the operational level and the DCP acted promptly and took corrective as well as remedial measures.

12. On 03.05.2025, the learned Trial Court observed that the Reply of DCP is on record, but the same cannot be substituted for the Report of Commissioner of Police. Since assessment of the DCP was ordered, the DCP himself cannot conduct the Competency Test. It was further observed that since no Report/Reply of the Commissioner of Police had been received, a fresh Notice was directed to be issued to the Commissioner of Police for submitting the Reply within one week.



13. The present Petition has been filed for expunging the remarks made against the DCP and the directions given to the Commissioner of Police in the aforesaid Orders.

14. **Learned Senior Advocate on behalf of the Petitioner** has submitted that determination of the competence of any Police Officer, is not within the domain of the Judicial Officer. Such remarks were neither warranted nor justified, considering that DCP only informed about the difficulty in serving of the Prosecutrix and took immediate remedial steps and had issued detailed Guidelines for the service of the Prosecutrix. Therefore, the remarks and the directions given are unjustified.

15. It is further submitted that all efforts have been made, as has been detailed by contacting through mobile numbers, relatives, Bank Accounts despite which the Prosecutrix could not be traced and has already been dropped by the learned ASJ.

16. **Submissions heard and record perused.**

17. Essentially, the learned ASJ was prompted to observe that incorrect Report has been submitted by DCP stating that the Prosecutrix has been served in the covering letter that was sent along with the Report of the Process Server, however, it was overlooked that the Report of the Constable clearly stated that the Prosecutrix was reported to be not staying in the house of the brother, who was found present there. Technically, though there may have been inadvertence in stating that the Prosecutrix was served, but when the complete Report is read comprehensively, it cannot be said that there was any mis-reporting.

18. In these circumstances, while the learned ASJ may be right in directing effective steps to be taken for the service of the Prosecutrix, but in



the process, to make unjustified remarks against the competence of a Police Officer is neither appreciable nor justified. Furthermore, no directions in the circumstances were warranted to be given to the Commissioner of Police to conduct any Enquiry into the competence of the DCP and, therefore, such observations and directions are hereby quashed.

19. Before concluding, it may be noted that while certain tough and effective directions are required to be given by the learned ASJ to ensure the presence of the witnesses for ensuring expeditious disposal, but the entire judicial process should not be derailed by getting into the personal competence or in questioning the conduct of the Police Officers. Some restraint is expected from the Judicial Officers and they must definitely refrain from either questioning the competence or making personal remarks about the Police Officers, especially when the circumstances do not so warrant.

20. The Petition stands disposed of.

NEENA BANSAL KRISHNA, J

MAY 8, 2025/va