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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(CRL) 3073/2023**  
**PRAVEEN KUMAR** .....Petitioner

Through: Mr. Bhupesh Narula, Mr. Rinku Narula, Ms. Poonam Nagpal, Mr. Anugrah Ekka and Mr. Kanishk Taneja, Advocates.

versus

**STATE OF NCT OF DELHI** .....Respondent  
Through: Mr. Sanjeev Bhandari, ASC (Crl.) with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates for State.  
SI Satish, P.S. Model Town and SI Arun, DIU/ Rohini.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
% **02.07.2025**

1. Through the present petition under Article 226 of the Constitution read with Section 482 of the Code of Criminal procedure, 1973<sup>1</sup>, the Petitioner seeks *inter-alia* a mandamus for transfer of the investigation/inquiry regarding all the complaints/applications filed by the Petitioner against the SHO and certain police officials of P.S. Model Town alleging physical assault by the officials. The Petitioner, who is a senior citizen, alleges that he along with his brother, son and nephew were subjected to brutal physical assault, extortion and illegal detention by the SHO and police officials at P.S. Model Town when they had gone to the

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<sup>1</sup> "Cr.P.C."



police station in relation to a complaint filed by them regarding an incident of road rage.

2. In this regard, the Petitioner filed complaints with the Commissioner of Police, Special Commissioner of Police, Vigilance as well as the DCP, North West, Delhi, against the SHO and ACP, North West requesting action to be taken against the erring officials for the alleged extortion, illegal detention, criminal intimidation and grievous injuries caused by them. Furthermore, the Petitioner also filed an application before the DCP, Ashok Vihar under Section 154(3) of the Cr.P.C. for registration of FIR.

3. However, despite the above complaints, when no action was taken, the Petitioner filed an application under Section 91 read with Section 156(3) of the Cr.P.C. before the Metropolitan Magistrate, Rohini District Courts, New Delhi, for preservation of the CCTV footage from the cameras installed inside P.S. Model Town from 10:30 PM on 21st May, 2023 to 8:30 AM on 22nd May, 2023, i.e., during the time the Petitioner and his family members were allegedly illegally detained and physically assaulted. Furthermore, in the said complaint, the Petitioner also sought initiation of departmental proceedings against the SHO and erring police officers of P.S. Model Town. The reliefs sought by the Petitioner in the said application are as follows:

**“PRAYER:-**

*It is therefore, most respectfully prayed in the facts and circumstances mentioned above that this Hon'ble Court may be pleased to: -*

- i. *Direct the ACP, P.S. Model Town to preserve the CCTV Footages of all the CCTV cameras installed in the Model Town Police station from 10:30 PM on 21.05.2023 to 8:30 AM on 22.05.2023; and to produce the CCTV Footage to this Hon'ble Court without any delay,*
- ii. *Direct the DCP concerned to initiate appropriate departmental*



*proceedings against the SHO P.S. Model Town and other delinquent police officials for custodial violence and illegal detention of the Applicant:*

- iii. *Direct the ACP concerned to produce the DD entries at the Police Station Model Town from 10:30 PM on 21.05.2023 to 8:30 AM on 22.05.2023; and to direct them to produce the call recording and locations details of Mobile Phone No.9312210294,931004811 and 8882110294 of the periods between 10 PM on 21.05.2023 to 8.30 AM on 22.05.2023.*
- iv. *Pass any other/further order(s) which this Court deems fit in the Interest of Justice.”*

4. In the said proceedings, the Petitioner received the copies of the DD entries as sought by him in prayer no. iii noted above. Subsequently, by way of an order dated 28<sup>th</sup> November, 2023, the said application was withdrawn by the Petitioner in the following terms:

***“Praveen Kumar Vs. State.  
PS Model Town.***

28.11.2023.

*Present: Ld. APP for the State.  
Sh. Shubham Prajapati, Ld. Counsel for applicant with applicant.*

*It is submitted by applicant that he wishes to withdraw the present application u/s 91 R/w 156 (3) Cr.PC. Request is allowed. Separate statement of applicant with regard to settlement and withdrawal recorded.*

*Application is disposed of accordingly.*

***(Himanshu Sehloth)  
MM-03/North/  
Rohini/ Delhi  
28.11.2023”***

5. However, despite withdrawing the said proceedings before the Magistrate, which *prima facie* indicates that the Petitioner’s grievances and consequently the relief sought in the complaint stood resolved, the Petitioner has invoked the jurisdiction of this Court under Section 482 of the Cr.P.C., seeking the following reliefs:



*“a) to transfer the investigation/inquiry/Complaint to any other independent agency through a High Rank Officer Superior than DCP under the monitoring of court in a time bound manner regarding in the all Complaints/ Application filed by Sh. Praveen Kumar is annexed as annexure P-3 and annexure P-4 in under section 154 with the Police Station Model Town Delhi and before the DCP North West Delhi filed u/s 154(3) for registration of FIR by the complainant in the above regards. As the accused police officials acting hands in glove with senior officials may influence the investigation process and so they cannot influence the investigation and tamper the evidences;*

*b) To issue a writ in the nature of Mandamus directing Respondent to register an C.R. under section 177,307,355,324,323,325,326,211,336,337,338,339,340,341,342,346,352,354,357,383,506 (ii) 509,166,166a,201 rw 120 B, 34 of Indian Penal code 1860 and Delhi Police Act section 122, and section 482 of CRPC based on the complaint filed by the Petitioner against the errant Police officials and their subordinates of the NW District Delhi Police officials and PS Model Town SHO and other subordinate officials who has brutally attacked on Petitioners filed by Sh. Praveen Kumar is annexed as annexure P-3 and annexure P- 4 in being senior citizens.”*

6. As evident from the above, there is an apparent overlap in the prayers which were sought before the concerned Magistrate and the prayers sought in the instant petition. Noticing this, this Court enquired from Mr. Bhupesh Narula, counsel for Petitioner, regarding the maintainability of the petition, particularly in light of the fact that the application filed before the Magistrate was withdrawn by the Petitioner without seeking any liberty to file a fresh petition.

7. In response, Mr. Narula submits that the application under Section 91 r/w Section 156(3) Cr.P.C. was filed only to gather the requisite material necessary for the Petitioner to substantiate the allegations of illegal detention and custodial violence by the Police officers. Therefore, once he received the copy of the DD entries in the proceedings before the Magistrate, the Petitioner withdrew the said application and decided to file the instant



petition.

8. Mr. Sanjeev Bhandari, ASC (Crl.) for State submits that the entire complaint of the Petitioner is motivated and none of the allegations made therein have any merit. Mr. Bhandari further submitted that in fact, an inquiry has already been conducted regarding the alleged actions of the concerned police officials and should the Petitioner invoke the jurisdiction of the Magistrate, the entire inquiry proceedings shall be placed before the said Magistrate for consideration.

9. Be that as it may, now the necessary DD entries have been duly received by the Petitioner, the appropriate remedy for him is to invoke the jurisdiction of the concerned Magistrate for apposite directions, if any grievance remains unresolved. In this regard, Mr. Narula has vehemently emphasized that this Court can exercise its jurisdiction under Section 482 of the Cr.P.C. to direct initiation of action against the police officials, particularly in light of the allegations made in the complaint.

10. While the broad proposition canvassed by Mr. Narula is not doubted, however, in the facts of the present case and considering the reliefs sought in the present petition, the Court is of the opinion that the Petitioner must first invoke the jurisdiction of the concerned Magistrate. The Supreme Court in ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage***<sup>2</sup> while relying upon the case of ***Sakiri Vasu v. State of U.P.***<sup>3</sup> has emphasised that in cases of non-registration of FIR or improper investigation by police, the appropriate remedy available to the aggrieved person is to first approach the jurisdictional Magistrate under Section 156(3) Cr.P.C.

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<sup>2</sup> (2016) 6 SCC 277

<sup>3</sup> (2008) 2 SCC 409



11. In light of the foregoing facts, the present petition is disposed of with a liberty to the Petitioner to approach the concerned magistrate, seeking redressal of his grievance, if any.

12. It is observed that the order dated 28<sup>th</sup> November, 2023, recording the withdrawal of the earlier application under Section 91 read with Section 156(3), notes that “*Separate statement of applicant with regard to settlement and withdrawal recorded.*” Since the word ‘settlement’ appears to be ambiguous, the withdrawal of the application based on an alleged ‘settlement’, shall not prejudice the case of the Petitioner.

13. Further, in order to rule any ambiguity, it is clarified that this Court has not commented on the merits of the allegations made by the Petitioner in the instant petition or any of the pleadings referred herein. All rights and contentions of the parties are left open.

14. The present petition is disposed of in the above terms.

**SANJEEV NARULA, J**

**JULY 2, 2025**

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