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

% ***Date of decision: 28th April, 2024***

+ **CRL.M.C. 6235/2018**

DINESH KUMARPetitioner

Through: Mr. Ronak Singh, Advocate.

versus

STATE & ORS.Respondent

Through: Mr. Shoaib Haider, Ld. APP for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Petition under Section 482 of the *Code of Criminal Procedure, 1973* ('Cr.P.C' *hereinafter*) has been filed by the Petitioner against the Order dated 14.11.2018 *vide* which the learned ASJ has set aside the Order of the learned MM dated 15.02.2018, directing the registration of FIR under Section 156(3) Cr.P.C.

2. ***Briefly stated***, the Petitioner-Dinesh filed a Complaint stating that on 15.02.2016 he along with his cousin Ravi and friend Parvesh, were going towards their home in Village Bakkarwala in a car which was being driven by Ravi Kumar, in which they had kept a cash of Rs. 50,000. At about 12.00-12.30 A.M., a DTC Bus bearing registration No. DL-1-PC-7163 hit the car from its left side near Kamruddin Nagar Mor. Parvesh called the PCR after which the police arrived on the spot and took them all to the



Police Station where Head Constable Madan Singh and other police officials, took the keys of the Complainant's car. He informed them that there was some cash lying in the car which he wanted to take out, but the police officials abused the Complainant and his brother and snatched the keys of the car. When the Complainant and his brother resisted, they got beaten up by Head constable-Madan Singh and other police officials.

3. He thus, made a Complaint against the misbehaviour, abuse and beatings and the cash of Rs. 50,000 being stolen from the car, by the police officials.

4. *Action Taken Report* was submitted on behalf of the State.

5. The learned MM in its Order dated 15.02.2018 referred to the Order of learned ASJ dated 20.02.2016 in granting bail to the Petitioner in FIR No. 88/2016 under Section 186/353/332 IPC and Section 184/185 MV Act wherein it was observed that the accused was chained and given beatings by the police officials in an illegal manner. Furthermore, no CCTV cameras were found installed in P.S. Nangloi as per the information obtained by the Complainant under RTI Act. However, the photographs filed by the Complainant clearly show the CCTV cameras installed in the Police Station. The learned MM further observed that there were specific allegations of alleged misbehaviour and beatings of the Complainant by the police officials. Consequently, Application under 156(3) was allowed and SHO was directed to register the FIR.

6. A Revision Petition was filed to challenge the Order dated 15.02.2018 of the learned MM which was set aside by learned ASJ vide Order dated 14.11.2018. Considering the allegations made in the Complaint, it observed



that no commission of cognizable offence was disclosed from the Complaint as complete facts were not considered by learned MM and some facts were wrongly considered in favour of the Complainant. Furthermore, it was observed that Complaint was barred under Section 197 Cr.P.C as no prior sanction was taken. Also, Section 140 Delhi Police Act, 1978 ('D.P. Act' *hereinafter*) provide that any Complaint against the police officials can be filed within three months with prior sanction of the Administrator which was not taken in the present case. It was thus, held that the Complaint was barred by limitation. ***The impugned Order of the learned MM was therefore, set aside vide Order dated 14.11.2018.***

7. Aggrieved by the dismissal of Application for registration of FIR, *present Petition under 482 Cr.P.C has been filed.* It is asserted that in regard to this incident, FIR No. 88/2016 under Section 186/353/332 IPC and Section 184/185 MV Act has been falsely registered against him. The CCTV cameras installed in P.S. Nangloi were intentionally not produced. The photographs produced by the Petitioner in fact support his assertions of misbehaviour and beatings by the Respondent. Furthermore, MLC/ medical documents of the Complainant also show that he had abrasions/ bruises on his person.

8. In the light of the *Lalita Kumari vs. State of U.P.*, (2014) 2 SCC 1, the FIR should have been mandatorily registered by the SHO. It is submitted that the impugned Order is liable to be set aside and that of the learned MM directing registration of FIR, must be restored.

9. ***Learned counsel for the Petitioner*** has argued that Section 197 Cr.P.C. comes into play not at the stage of registration of FIR, but when the



Chargesheet is required to be filed in the Court. The learned ASJ has wrongly made a reference to Section 197 Cr.P.C. at the stage of registration of FIR.

10. Moreover, reference to Section 140 D.P. Act has also been wrongly made to hold that the Complaint is barred by limitation.

11. Hence, a prayer is made that the impugned Order dated 14.11.2018 of learned ASJ be set aside and the FIR be directed to be registered.

12. ***The Status Report has been filed on behalf of the State*** wherein it is submitted that the car in which petitioner was present, had hit into the DTC bus driven by Satish. Even though Satish, driver of the Bus, stated that he did not want any legal action, Dinesh who was in inebriated condition, used unconstitutional language against Head Constable Madan and found fault with his medical examination being conducted. Petitioner stated that he drinks the wine from his own money and has damaged his own car. When Head Constable Madan tried to make him understand that driving a vehicle after drinking is an offense, he got more angry and caught him from his neck and tore his uniform and caused him injury. He also tore the official documents (DD Entries) that were kept on his table in the Police Station. The Statement of Head Constable Madan was recorded by SI Pankaj Saroha and FIR No. 88/2016 under Section 186/353/332 IPC and Section 184/185 MV Act, was registered.

13. During the investigations, broken button from the uniform of Head Constable Madan, his torn official documents as well as the uniform-shirt and 'banayan' were seized. The DTC bus as well as the car of the Petitioner was also seized and deposited in *malkhana*. During the investigation medical



examination of Head Constable Madan was done wherein it was noted that he had scratch/abrasion over front of his neck.

14. It is further submitted that the acts of Head Constable Madan were in discharge of official duty. During investigation, the permission under Section 195 Cr.P.C. was obtained.

15. The Bail Application of the Petitioner under FIR No. 88/2016 was dismissed by the learned MM on 17.02.2016, but he was granted bail by learned ASJ on 20.02.2016. The allegations levelled against Head Constable Madan are motivated, intending to create contradictions and suspicion in the eye of the court. The FIR No. 88/2016 has been rightly registered against the Petitioner.

16. ***Respondent nos. 2 and 3, the police officials*** had been served and they had initially put in their appearance but thereafter stopped appearing.

17. **Submissions heard and record perused.**

18. Essentially, an incident occurred in the night of 15.02.2016 when a car which was being driven by Ravi, friend of the Petitioner, but according to the police, driven by the Petitioner in a drunken condition, banged into the DTC bus being driven by Satish and the PCR call was made. They were all taken to the Police Station.

19. However, Satish driver of the DTC bus made a statement that he did not want any police action. The Petitioner who was drunk as established by his MLC, wherein his alcohol content was noted to be 0.425mg/dl, he fought with Head Constable Madan and tore his uniform and also abused him which led to the registration of FIR No.88/2016.

20. The Petitioner herein has asserted that in fact, the vehicle was being



driven by Ravi and he was given severe beatings, tortured and chained in the Police Station by Respondent nos. 2 and 3. He has relied on his MLC which shows bruises on his lumber region. He thus, filed the Complaint and also the Application under Section 156(3) Cr.P.C. for getting the FIR registered.

21. The incident whereby the car and the DTC bus collided is not disputed. It is also not under challenge that the Petitioner was brought to the Police Station by the police officials. It is also not disputed that as per the MLC of the Petitioner alcohol content in blood was noted to be 0.425mg/dl.

22. It is the claim of the Petitioner that he had been beaten up and chained by the police officers. His medical examination has already been conducted. He himself has relied on some photographs and apparently there are no CCTV footage. The record shows that the evidence sought to be relied upon by the Petitioner is within the power and control. The evidence is not required to be collected by the Police. It is evident that the circumstances do not justify direction for registration of FIR under Section 156(3) Cr.P.C. The Petitioner is at liberty to prove his Complaint by producing his evidence under Section 202 Cr.P.C.

23. There is no merit in the present Petition which is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 28, 2025/n