



IN THE COURT OF MANISH KHURANA
MM:OUTER:ROHINI COURTS:DELHI

Dr. C P Singh Vs. Parshuram Singh etc.

P. S. Prashant Vihar

CC No.: 58/1

ORDER

1. By this order, I shall dispose of the application u/s 156(3) Cr.P.C. as filed by the complainant for issuing directions to SHO, PS Pr. Vihar to register FIR against the accused persons.
2. I have heard the arguments of Ld. Counsel for the complainant and have carefully perused the record.
3. The complainant has alleged that he is a law abiding citizen and is residing at Quarter No. 1, Type-IV, FSL Complex, Sector-14, Rohini and in the year 2008, the complainant submitted a complaint to the Director, FSL regarding his huge electricity bill. It is further submitted that the complainant has been facing constant harassment by the alleged accused persons who used to sit in front of the residence of the complainant covering half of the road and they used to pass lewd comments such as Napalies,

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North East, Chinese, Chinky Owl and whenever the complainant is about to reach his residence, the such abusive language is used which hurt the self respect and reputation of the complainant. It is further stated that the complainant got installed one video camera on 09.02.2011 to capture the illegal acts of the alleged accused persons. The complainant has further stated that the alleged accused persons used to pass lewd comments upon him and a written complaint was also given to SHO PS Prashant Vihar but no action has been taken by the police. It is further stated that the alleged accused Amarpal has also tried to assault the complainant in front of the Director, FSL and also threatened him on 20.05.2010. The complainant has also stated that alleged accused Parshuram and Amarpal wanted to harm the career of the complainant as well as his reputation with some ulterior motives. It is submitted that the alleged accused persons have been continuously conspiring to malign the reputation of the complainant as well as that of his family. It is further stated that the alleged accused persons also submitted a false and fabricated complaint against the complainant in Mahilla Ayog on 10.02.2011 and the complainant was acquitted of the charges against him. The

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complainant has further stated that all the alleged accused persons have been doing the such acts intentionally to harm the reputation and dignity of the complainant. It is further alleged that Dr. Madhulika Sharma i.e. the Deputy Director, FSL Rohini has so many times conspired with the fellow members in the FSL premises to malign the image of the complainant. The complainant has also lodged various complaints to the Director, FSL but no action has been taken. Hence, the present application has been filed.

4. The status report was called from SHO, PS Prashant Vihar according to which the enquiry was conducted and it was found that the complainant has levelled allegations on minor issues as per the status report, the alleged accused persons also levelled counter allegations that the complainant has been creating nuisance in the residential complex. As per the status report, all the allegations levelled by the complainant were found to be non-cognizable. Hence, no FIR was registered.
5. I have perused the record carefully and gone through the entire material placed before the Court by the complainant. The Court is supposed to order investigation keeping in mind

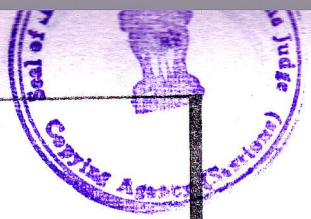
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the guidelines issued by the Hon'ble Delhi High Court in the case of Subh Karan Luharuka & Anr. Vs. State & Anr. 2010(3) JCC 1972. Those guidelines are as under.

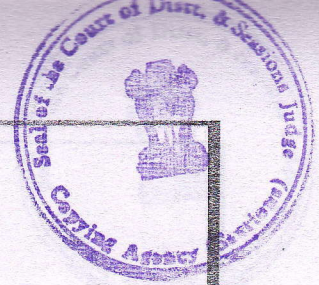
"52A. For the guidance of subordinate Courts, the procedure to be followed while dealing with an application u/s 156(3) of the Code is summarized as under:

(i) Whenever a Magistrate is called upon to pass orders under Section 156(3) of the code, at the outset, the Magistrate should ensure that before coming to the Court, the complainant did approach the police officer in charge of the Police of Station having jurisdiction over the area for recording the information available with him disclosing the commission of a cognizable offence by the persons/persons arrayed as an accused in the complainant. It should also be examined as to what action was taken by the SHO, or even by the senior officer of the Police, when approached by the complainant under Section 154(3) of the Code.

(ii) The Magistrate should then form his own opinion whether the facts mentioned in the complaint disclose commission of cognizable offence by the accused persons arrayed in the complaint which can be tried in his jurisdiction. He should also satisfy himself about the need for investigation by the police in the matter. A preliminary enquiry as this is permissible even by

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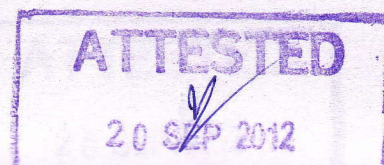
an SHO and if no such enquiry has been done by the SHO, then it is all the more necessary for the Magistrate to consider all these factors. For that purpose, the Magistrate must apply his mind and such application of mind should be reflected in the Order passed by him.

Upon a preliminary satisfaction, unless there are exceptional circumstances to be recorded in writing, a status report by the police is to be called for before passing final orders.

(iii) The Magistrate when approached with a Complaint under Section 200 of the Code, should invariably proceed under Chapter XV by taking cognizance of the Complaint, recording evidence and then deciding the question of issuance of process to the accused. In that case also, the Magistrate is fully entitled to postpone the process if it is felt that there is a necessity to call for a police report under Section 202 of the Code.

(iv) Of course, it is open to the Magistrate to proceed under Chapter XII of the Code when an application under Section 156(3) of the Code is also filed alongwith a complaint u/s 200 of the Code if the Magistrate decides not to take cognizance of the Complaint. However, in that case, the Magistrate, before passing any order to proceed under Chapter XII, should not only satisfy himself about the pre requisites as aforesaid, but, additionally, he should also be satisfied that it is

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necessary to direct Police investigation in the matter for collection of evidence which is neither in the possession of the complainant nor can be produced by the witnesses on being summoned by the Court at the instance complainant, and the matter is such which calls for investigation by a State agency. The Magistrate must pass an order giving cogent reasons as to why he intends to proceed under Chapter XII instead of Chapter XV of the Code."

7. As per the clear cut guidelines issued by our Hon'ble High Court as extracted above, it is the Paramount duty of the Court to satisfy itself when the case is such a nature where it is necessary to direct police investigation in the matter for collection of evidence which was neither in possession of the complainant nor could be produced by the witness of the complainant and the matter was, therefore, of such a nature which called for investigation by the investigating agency.

8. Considering the facts and circumstances of the present case and the status report filed by the concerned SHO, I am of the considered opinion that all the evidence are well within the knowledge of the complainant and there is no need for investigation by the Police. It can only be ordered when it

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ATTESTED
20 SEP 2012
Date



becomes apparent to the Court that complainant does not possess the requisite evidence. In such situation, registration of FIR is directed so that with the help of police aid complainant can collect evidence to reach to the truth. In this case, police investigation does not seem to be essential and, therefore, there is no requirement for direction for registration of the FIR. Accordingly application of the complainant u/s 156(3) Cr. PC is dismissed. However, the complainant is at liberty to lead evidence.

10. Put up on 30.11.2012 for CE.

Announced in the open court
today i.e. on 07.09.2012.

(MANISH KHURANA)
MM:Rohini Courts:Delhi

