

Noor Hassan & Ors vs State N.C.T.Of Delhi & Ors on 25 February, 2022

Author: Subramonium Prasad

Bench: Subramonium Prasad

\$~18

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 1035/2020

NOOR HASSAN & ORS

Through: Mr. Arvinder
Advocate

versus

STATE N.C.T.OF DELHI & ORS

Through: Mr. Rajesh Mahajan, ASC for
State with Ms. Jyoti Babbar,
Advocate and SI Somvir Singh
Police Station Prashant Viha

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% 25.02.2022

1. The instant writ petition has been filed with the following prayers:-

"i) To pass such other writs(s), order(s) or directions(s) directing the respondent/ authorities to provide adequate amount of compensation for violating the fundamental rights and harassment caused to the Petitioners; ii) To pass such other writs(s), order(s) or directions(s) directing the respondent/ authorities to provide adequate amount of compensation to Petitioner No 2 for violating the fundamental and legal rights and also Hon'ble Apex Court guidelines for not to retain female at night for interrogation purpose;

iii) To pass such other writs(s), order(s) or directions(s) directing the Respondent No 1 to initiate exemplary action against the erring officials;

iv) to pass such other writs(s), order(s) or directions(s) directing the Respondent No 1 to transfer the investigation of the FIR No 162/ 2020 to other Police Station/ department for investigation done on merit as there will not be any justice because complaints have been made and this writ has been filed against the Respondent No 2 who is in-charge of Police Station and Respondent No 3 so both have become prejudiced and no just and fair investigation be conducted otherwise miscarriage of justice will take place due to Respondents prejudiced attitude;

iv) to pass such other writs(s), order(s), or directions(s) as is deem fit and proper in the premises of the case, which is not specifically prayed for hereinabove in the interest of justice;

v) Allow the present writ petition, in favour of the Petitioner."

2. On 06.08.2020, it was stated by the learned counsel for the petitioner that the petitioner was detained in the Police Station on 16.06.2020 upto 2:00 AM and on 27.06.2020 upto 10:00 PM. The petitioner sought compensation for the illegal detention. It was stated that no other prayers were being pressed.

3. Status Report was called for. Status Report has been filed. Paragraph 3, 4 and 5 of the Status Report is being reproduced as under:-

"3. That the name of petitioner no.2 surfaced during the investigation for the first time on 19.06.2020 in the statement of the complainant recorded under section 164 Cr.P.C. She was called in the police station by way of a notice u/s 41A Cr.P.C. dated 27.06.2020 to join investigation at 4:30 pm the same day. She came to the PS around 5 pm on 27.06.2020 and went back at around 6 pm after joining investigation. Intact, since her name appeared subsequently in statement u/s 164 Cr.P.C., she was not even formally arrested even on appearance and was only interrogated and was asked to leave thereafter, which was around 6 pm. There was no illegal detention of Petitioner no.2 till 10 pm on the said date as alleged.

4. That the petitioners are accused in case FIR 162/2020 u/s 323/506/509/34 IPC and appear to have filed the present petition in order to put undue pressure on the police officers involved in the investigation of the case.

5. That since the allegations regarding detention of petitioner no.2 in the Police Station are false, motivated and are vehemently denied, the petition would involve disputed questions of fact, which cannot be adjudicated by way of present proceedings or in a writ petition."

4. The Status Report indicates the circumstances in which the petitioners were called to the Police Station. The question as to whether the petitioners were illegally detained or not are pure questions of fact for which evidence has to be lead and the same cannot be adjudicated in a writ petition.

5. Confronted with this, learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to file a suit.

6. Liberty and permission, as sought for, is granted. If and when such a suit is filed, the time taken in filing the present writ petition till the time of its disposal be taken into account while calculating the limitation, keeping in mind the mandate of Section 14 of the Limitation Act.

7. Since the petition is sought to be withdrawn, this Court has not made any observations on the merits of the case.

8. The petition is disposed of as withdrawn. Pending application(s), if any, stand disposed of.

SUBRAMONIUM PRASAD, J FEBRUARY 25, 2022 hsk