

Sanjiv Kumar Vashist vs The State (Govt. Of Nct Of Delhi) & Ors on 25 February, 2020

Author: Vibhu Bakhru

Bench: Vibhu Bakhru

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 1589/2019 & CRL.M.A. 11570/2019, CRL.M.A.
11979/2019, CRL.M.A. 43709/2019, CRL.M.A. 44/2020,
CRL.M.A. 3540/2020, CRL.M.A. 3541/2020 (Ex.)

SANJIV KUMAR VASHIST Petitioner
Through Petitioner in person.

versus

THE STATE (GOVT. OF NCT OF DELHI)
& ORS Respondents
Through Ms Nandita Rao, ASC for State
ASI Ramesh Kumar, P.S. Malviya Nagar present.
Mr Parag Chawala, Advocate with Mr Y.R.
Sharma, Mr Buddhadeo Pd. Advocates for R2 with
Ms Neetu Gaur in person.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
ORDER

% 25.02.2020

1. The petitioner, who is stated to be a practicing advocate, has filed the present petition, inter alia, impugning a notice dated 24.04.2019 informing the petitioner that the security cover provided to him would be withdrawn with effect from 25.05.2019, that is, after a period of one month from the said notice.

2. This Court had, by an order dated 03.08.2016 passed in W.P. (Crl.) 1879/2013 and Crl. M.A. No. 17132/2013 captioned as Sanjeev Kumar Vashist v. State GNCT of Delhi & Anr., directed that security cover be extended to the petitioner till conclusion of his evidence as well as evidence of other independent witnesses in cases resulting from FIR No. 49/2012 registered with PS Malviya Nagar and in FIR No. 254/2015 registered with PS Saket.

3. The petitioner claims that while he was on his way back home from the Saket Court Complex, he was attacked by certain members of the builder mafia, who were inimical towards him as he had filed certain writ petitions before this Court. The petitioner had filed a complaint regarding the said alleged incident resulting in registration of the FIR No. 49/2012, inter alia, under Section 308 of the

IPC, with PS Malviya Nagar.

4. The petitioner had also filed another complaint alleging that one of the brothers of the accused had come to his chamber in the Saket Court Complex along with an accomplice and had threatened him. In view of the aforesaid complaint, FIR No. 254/2015 under Sections 195A/506/34 of the IPC was registered with PS Saket.

5. The order dated 03.08.2016 passed by this Court, whereby the security cover was directed to be extended to the petitioner, also expressly provided that the said order would be subject to the condition that the petitioner himself does not delay the recording of the evidence in the said cases. This Court had also directed that in the event the respondent intends to withdraw the petitioner's security upon a fresh assessment of the threat perception, they shall give a thirty days' notice of their intention to do so, in order to enable the petitioner to avail his remedies in accordance with law.

6. The respondent claims that the petitioner has been delaying the recording of his evidence and therefore, the order dated 03.08.2016 would no longer inure to his benefit. This was also recorded by an order dated 03.12.2018 passed by the learned ACMM, in a case relating to FIR No. 254/2015. The learned ACMM had noted that the petitioner had sought adjournments on 12.04.2016, 15.09.2016, 16.03.2017 and 02.05.2017 on medical grounds. It is, thus, alleged that the petitioner has been delaying the recording of the evidence and the order dated 03.08.2016 does not inure to his benefit any further.

7. The petitioner who appears in person states that the adjournments sought were for bona fide reasons and there has been no intentional delay on the part of the petitioner.

8. Apart from the aforesaid issue, the petitioner also has matrimonial disputes with his wife and his wife has alleged that the petitioner is misusing his security cover. In this context, his wife has filed a writ petition (being W.P. (Cr.) 3435/2018 captioned Neetu Gaur v. Commissioner of Police Delhi & Ors.), alleging that the petitioner had misused the security provided to him. In this regard, a Coordinate Bench of this Court had passed an order dated 13.11.2018 in the aforementioned petition, inter alia, directing that the said petition be considered as the representation of petitioner's wife to the DCP (Security). The concerned DCP was directed to review the matter and pass appropriate orders in that regard.

9. Considering the above, the concerned DCP has passed the order dated 24.09.2019, which is impugned herein.

10. The petitioner states that he is under immense threat in view of the stand taken by him against the builder mafia. He further submits that withdrawing the security at this stage would expose him to imminent harm at their hands and therefore, the present petition be considered as a petition seeking enforcement of rights under Article 21 of the Constitution of India. He further submits that the allegation that he has misused the security cover is unsustainable, as the security official is not required to follow his instructions.

11. This Court has heard the petitioner as well as the learned ASC appearing for the State.

12. The order dated 03.08.2016 directing that security cover be extended to the petitioner was passed four years ago and the petitioner has been provided services of a security official (PSO) since.

13. It is well settled that the question whether any addition security requires to be provided to a particular person is a matter of threat perception that has to be evaluated by the concerned authorities. It is also seen that there is no complaint on record which has been made after 03.08.2016. However, the petitioner states that there have been further instances, although complaints in that regard have not been placed on record.

14. He also submits that the concerned DCP (Security) has not examined his apprehension before passing the impugned order.

15. As stated above, the question whether security cover is to be provided to an individual or an entity and if so, to what extent, is required to be evaluated by the concerned authorities. This Court has no material to conclude that the decision of the concerned DCP (Security) to withdraw the security cover is arbitrary or unreasonable.

16. However, since the petitioner asserts that his apprehensions have not been considered, this Court considers it apposite to direct the DCP (Security) to afford the petitioner a hearing and pass an appropriate order as to whether security cover is required to be provided to the petitioner. Till the said decision is rendered, the respondent shall continue to extend the security cover to the petitioner.

17. The petition is disposed of with the aforesaid directions.

18. All pending applications are also disposed of.

19. Order dasti under signatures of the Court Master.

VIBHU BAKHRU, J FEBRUARY 25, 2020 pkv