

Mr. Sanjeev Kumar & Anr vs Union Of India & Ors on 10 December, 2021

Author: Mukta Gupta

Bench: Mukta Gupta

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 3359/2019
CRL.M.A.41610/2019 (for stay)
CRL.M.A.41611/2019 (for directions)

MR. SANJEEV KUMAR & ANR. Petitioner
Represented by: Mr. Wills Mathews, Advocate.

versus

UNION OF INDIA & ORS. Respondent
Represented by: Ms. Nandita Rao, ASC for the State
with Mr. Amit Peswani, Advocate.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA
ORDER

% 10.12.2021

1. By this petition the petitioners pray as under:-

"A. Issue a writ, order, direction including a writ in the nature of mandamus, or any other appropriate writ/ orders directing a CBI enquiry into the events leading to registration of FIR No.587/2018, PS New Ashok Nagar, Delhi, under section 365/328/376D/506 IPC against the petitioners, leading to arrest and the consequent physical Torture of the first petitioner while in Mandoli Jail, Delhi, and to take appropriate legal actions against those who conspired the registration of fake FIR against the petitioners, including identifying the defacto complainant if any exists.

B. Pass appropriate orders directing respondent no. 1 to 5 to ensure that, the petitioners and their family members are not further implicated in false and frivolous cases leading to illegal arrest and torture.

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C. Pass an order directing the respondents no.1 to 5 to

pay compensation / damages of 5 crore with interim relief of 10 Lakhs for malicious prosecution, illegal arrest and physical torture of the petitioner no.1 while in jail. D. Pass an order directing the respondents to review the legal proceedings initiated against, the petitioners in FIR No.587/2018 P.S New Ashok Nagar, Delhi- and take appropriate actions including withdrawal of the prosecution against the petitioners.

E. Pass an order directing respondent no. 1 to 5 to pass an order directing appropriate security to the petitioners and to ensure that they are not killed in fake encounters. F. Pass an order directing respondent no.1 to 4 to constitute a committee for rehabilitation of the victims of false implication, and make Delhi, a place free from False Rape Accusation.

G. Pass any further order or orders which this Hon'ble court may deem fit and proper in the interest of justice and award the cost of the present petition."

2. Case of the petitioners is that FIR No.587/2018, under Sections 365/328/376/506 IPC has been registered against the petitioners falsely at the instance of the wife of petitioner No.1 who is working as a Sub- Inspector in Delhi Police. Petitioners state that the wife of petitioner No.1 had filed case with CAW Cell, Seema Puri resulting in registration of FIR under Section 498A/406/506/34 IPC and Section 4 of the Dowry Prohibition Act and the petitioners were forced to enter into a compromise and they agreed to pay a sum of 3,00,000/- for settling the matter in the light of repeated harassment caused by the wife of petitioner No.1.

3. It is stated that after lodging the abovenoted false FIR, the police officer arrested them illegally and the petitioner No.1 consequently faced physical torture in Mandoli jail and thus for registration of a false case and W.P.(CRL) 3359/2019 PageDigitally arrest in a false and frivolous case, compensation/ damages of 5 crores with interim relief of 10 lakhs for malicious prosecution and illegal arrest be granted.

4. FIR No.587/2018 has been lodged by the prosecutrix claiming that in June, 2017 she had come to New Ashok Nagar Dharamshila Cancer Hospital for some work and was waiting for the tempo. In the meantime a black colour car came and the person sitting at the back seat rolled down the window and stated that he could drop her where she wanted to go. She sat on the back seat of the car. On the way she was given cold drink and after which she became unconscious and she was raped. She was finally left at the tempo stand at Model Town. She was threatened not to disclose the incident. She did not disclose these facts to anybody and when she came back to Dharmshila Cancer Hospital in October, 2018 she found the two accused and thus lodged the FIR.

5. Learned counsel for the petitioner states that on the face of it the FIR shows false and improbable facts. This contention of the learned counsel cannot be accepted. As the contents of the FIR disclose commission of a cognizable offence and as per the law laid down by the Hon'ble Supreme Court in the decision reported as (2014) 2 SCC 1 Lalita Kumari Vs. Government of Uttar Pradesh, the SHO of the concerned Police Station is duty bound to register the FIR, which has been done.

6. Ms. Nandita Rao, learned Additional Standing Counsel for the State submits that after registration of the FIR investigation is going on, however, the charge sheet has not been filed.

7. Whether the above noted FIR is false or not has to be determined by the learned Trial Court on appreciation of evidence and no finding on this W.P.(CRL) 3359/2019 PageDigitally count can be arrived at by this Court in a writ petition.

8. Considering the nature of allegations in the FIR, this Court does not find it to be a fit case for grant of relief as prayed in the petition. It is, however, clarified that in case after trial, the Court comes to the conclusion that the petitioners were falsely implicated, the petitioners will have their remedies in accordance with law.

9. Petition and the applications are dismissed.

10. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

DECEMBER 10, 2021
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