

Ajay Gautam vs Union Of India Through Ministry Of Law ... on 3 April, 2025

Author: Neena Bansal Krishna

Bench: Neena Bansal Krishna

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 14th Janua
Pronounced on: 03rd Apr

+ CRL.M.A. 1623/2021 in W.P.(CRL) 1311/2020
AJAY GAUTAM

Through: In person through VC

Versus

UNION OF INDIA THROUGH MINISTRY OF LAW AND
JUSTICE THROUGH ITS SECRETARY & ORS.Respondents
Through: Mr. Ripudaman Bharadwaj, CGSC
through VC, Mr. Amit Kumar Rana
& Mr.Kushagra Kumar, Advocates
for UOI

Ms. Rupali Ba
Additional Standing
Mr.Abhijeet Kumar & Mr.
Arora, Advocates for St
Mamta, PS Dabri, Delhi

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M

E N T

NEENA BANSAL KRISHNA, J.

1. The present Application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") has been filed on behalf of the Petitioner/Ajay Gautam seeking amendment of his Writ Petition.

2. Relevantly, the Writ Petition has been preferred by the Petitioner under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking a Declaration that the procedure adopted by the police to carry out enquiry/ investigation pursuant to Order dated 14.05.2016 passed by the learned Metropolitan Magistrate in Complaint under Section 156(3) Cr.P.C. for submitting Action Taken Report (ATR), is arbitrary, illegal and ultra vires, as it is in violation of Articles 14 & 21 of the Constitution of India.

3. The Petitioner has sought amendment of the Prayers in the Writ Petition as under:-

"(i) Issue an appropriate writ, orders or direction for declare the investigation against the Petitioner and his wife in connection with DD.no.38 B, dated 05.12.2015 and in compliance of order passed by Court of M.M. Dwarka in C.C. No. 1240/1/2016 doted 14.05.2016 dated 14.05.2016 being arbitrary, illegal ,ultra virus and bad in law.

(ii) Stricture may pass against then time Station House officer, Police Station Dabri and all investigation officer in the matter of DD.no.38 B, dated 05.12.2015 and in C.C. No. 1240/1/2016 particularly ASI Suresh Kumar, SI Sanjay for conduct illegal investigations for more than 600 days.

(iii) Stricture may pass against Metropolitan Magistrate Sh. Sidarth Malik for permitting police officials of Police Station Dabri for illegal investigation without following due process of law.

(iv) Order may pass for paying appropriate compensation to the petitioner from the police and Govt. of Net. Of Delhi for violation of right of privacy harassment, humiliation , disturb the life of petitioner for more than 650 day in the name of illegal investigation, particularly submission made in Ground A, B and C of the Writ petition."

4. No formal reply to this Application has been filed on behalf of the Respondents.

5. Submissions heard and record perused.

6. Essentially, the Writ Petition had been filed wherein grievance was made in regard to the enquiry conducted over a period of 650 days on the directions of the learned Metropolitan Magistrate under Section 156(3) Cr.P.C., wherein eventually a report was filed that no cognizable offence was disclosed and the Application under Section 156(3) Cr.P.C. was dismissed by Order dated 10.10.2018.

7. Aggrieved by the protracted enquiry conducted without there-being any Complaint/ FIR against the Petitioner, he has filed the present Writ Petition challenging the validity of the enquiry being conducted under Section 156(3) Cr.P.C. on the directions of the learned Metropolitan Magistrate before registration of the FIR. The prayer was made that the guidelines be laid down for conducting such enquiries. The prayers were as under:-

"(i) Issue an appropriate writ, orders or direction for declare the procedure being followed by Delhi Police with regards to inquires/ investigations made in pursuant to order passed by Ld. Metropolitan Magistrate under Section 156(3) of Code of Criminal Procedure for submitting Action Taken Report being arbitrary, illegal and ultra, in the interest of justice and equity;

(ii) Issue an appropriate writ, orders or appropriate direction to the Respondent No.1 (Ministry of Law and Justice) , Respondent No.2(Govt. of NCT of Delhi) Respondent No.3(Delhi Police), for issue appropriate guidelines or frame appropriate procedure to deal with the application filed under section 156/(3) Cr.P.C. with regards to power of Investigating Officer, functioning of Ld. Subordinate Court, what is the maximum time period for filing action taken Report , what is the maximum time period for decide application filed under section 156(3) Cr.P.C."

8. However, now the prayer is sought to be amended to the specific case of the Petitioner with compensation for violation of his privacy, harassment, humiliation and disturbance to his life for more than 650 days.

9. The Writ Petition essentially made a grievance of the alleged harassment for about 650 days during which the enquiry was conducted by the police on the directions of learned Metropolitan Magistrate and multiple ATRs were submitted over a period of time. Though originally the prayer was general but now, by way of amendment, the Petitioner seeks to make it specific to his own case and also to seek compensation for alleged harassment.

10. The Prayer Clause is, therefore, permitted to be amended to incorporate Prayers No.1 & 4 in the Writ Petition.

11. Insofar as, Prayers No. 2 & 3 in regard to passing of strictures against the SHO and learned MM are concerned, these prayers are completely unwarranted; whether due procedure was followed and whether any remarks would be made in this regard, is a complete prerogative of the Court and the same cannot be demanded as a Prayer, by the Petitioner.

12. Therefore, amendment to substitute the Prayers at 1 & 4, as proposed in the amendment Application, is hereby allowed. The Amended Petition be filed within 15 days, with copy to the opposite Counsel, who may file Reply within 15 days.

13. With aforesaid directions, the present Application is accordingly disposed of.

W.P.(CRL) 1311/2020:

14. In view of Order passed in Crl. M.A. 1623/2021, Petitioner is permitted to file Amended Petition within 15 days, with copy to the opposite Counsel.

15. Counter Affidavit to the Amended Petition, if any, be filed by the Respondents within four weeks.

16. Be listed on 03.09.2025.

(NEENA BANSAL KRISHNA) JUDGE APRIL 03, 2025 r