



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Reserved on: February 19, 2025

Pronounced on: May 23, 2025

+

CRL.M.C. 2227/2021 & CRL.M.A. 5934/2023

ANNU SINGH

.....Petitioner

W/O SHRI AISHVEER SINGH

R/O 656 SHREE AWAAS APARTMENT,

SECTOR 18-B, DWARKA, NEW DELHI

Through: Mr. Pradeep Kumar Arya,
Mr. Gaurav Chaudhary &
Mr. Rishabh, Advocates

Versus

1. **STATE GOVT OF NCT OF DELHI**Respondent No. 1
THROUGH
SHO,
PS: DWARKA NORTH,
NEW DELHI
2. **SUB INSPECTOR SOLANKI**Respondent No. 2
3. **CONSTABLE MANJEET**Respondent No. 3
4. **CONSTABLE SURENDER**Respondent No. 4
5. **CONSTABLE RAHUL CHAURE**Respondent No. 5
6. **DIRECTOR GENERAL OF POLICE**Respondent No. 6
BHOPAL, POLICE HEAD QUARTERS,
JAHANGIRABAD, BHOPAL -462008
Email - dgmp@mppolice.gov.in



Through: Mr. Nawal Kishore Jha, Additional
Public Prosecutor for Respondent-
State with SI Ashish Kumar, P.S.
Dwarka North.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) read with Article 227 of the Constitution of India, has been filed by the Petitioner seeking setting aside of the Order dated 12.03.2020 whereby the learned District & Session Judge has upheld the Order dated 30.10.2019 of the learned Metropolitan Magistrate dismissing her Application under Section 156(3) Cr.P.C. to register an FIR under Sections 120B/192/193/365/368/390/392/395/467/468/471/506-II Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) read with Section 34 IPC.

2. ***Briefly stated***, the Petitioner had filed a Complaint under Section 200 Cr.P.C. along with an Application under Section 156(3) Cr.P.C. wherein she asserted that on 24.08.2018, at about 4:30-5:00 PM, the Respondents came to her residence and caught hold of the Petitioner's son, Pranjal Singh. The Respondents claimed themselves to be from Cyber Cell, Bhopal, Madhya Pradesh. They searched the entire home without any search warrant and took away the phone and laptop of her son, along with Rs.15,000/- to Rs.16,000/, from her residence. They also took her son into illegal custody. The



Petitioner further alleged that her son has been filed falsely implicated in a criminal case by issuing a forged Notice dated 25.08.2018 under Section 41A Cr.P.C. for taking him to Bhopal and thereafter, arresting him on 27.08.2018.

3. She filed a Complaint with the Police, but no action was taken. Therefore, Complaint under Section 200 Cr.P.C. along with Application under Section 156(3) Cr.P.C. was filed.

4. ***The learned Metropolitan Magistrate vide impugned Order under Section 156(3)*** dated 30.10.2019 in Complaint No.29394/2019, dismissed the Application under Section 156(3) Cr.P.C. by observing that the purpose of investigation by the Police is to collect evidence against the accused, but since the Complainant/ Petitioner is aware of his identity and is in control and possession of the evidence against the Respondents, no fruitful purpose would be served by sending the case for investigation by the Police.

5. The Petitioner preferred a ***Revision Petition CR No. 35/2020*** (65/2020) against the Order dated 30.10.2019 before the learned District & Sessions Judge, who *vide* Order dated 12.03.2020 upheld the Order of learned Metropolitan Magistrate.

6. Aggrieved by the aforesaid two Orders passed by the learned Metropolitan Magistrate and upheld by the learned District & Sessions Judge, the present Petition has been filed.

7. ***The grounds of challenge in the present Petition*** are that the impugned Orders have been passed based on conjectures and surmises. The relevant material and facts of the Complaint have not been taken into consideration.



8. The victim/Petitioner has been imposed with the duties of an Investigating Officer / Police in Order to collect, examine, preserve and produce the evidence legally on her own, without any legal authority, before the Court. It is to be understood that crime is always against the Society and it is the responsibility of the State to investigate the crime and protect the rights and interests of the victim and assist the Court in delivery of speedy justice.

9. It has not been appreciated that it is mandate of Section 154 Cr.P.C. that whenever any information about the commission of cognizable offence is made, it is the bounden legal duty of the Station House Officer to register the FIR. It has also not been appreciated that all the evidence in the present case is in the custody of Petitioner and without investigation by the Police, it would not be possible to establish the guilt of private Respondents.

10. It is further submitted that pursuant to the Application filed by the Petitioner before the learned Metropolitan Magistrate, the SHO, Police Station Dwarka, Delhi has been directed to take necessary steps for preserving the Call Detail Record in respect of Mobile Phone number furnished by her.

11. Further, she had filed an Application under RTI with the Joint Commissioner, Madhyanchal Bhawan regarding stay of private Respondents at Madhya Pradesh from 20.08.2018 till 26.08.2018, but no suitable Reply was given by the Joint Commissioner of accommodation and the Joint Commissioner, PIO. The Petitioner thereafter, preferred an Appeal with the Appellate Authority Madhyanchal Bhawan, Chanakyapuri, New Delhi, who *vide* Order dated 02.05.2019 asked for a copy of the FIR and held that if



Delhi Police/ Investigating Agency wishes to collect the information, it can be provided.

12. It is further contended that the Petitioner is unable to collect the evidence vis-à-vis CCTV footage, Guest Entry Register and get registration of FIR against the private Respondents.

13. The Petitioner has relied upon decision in Subhkaran Luharuka vs. State (Govt. of NCT of Delhi), 2010:DHC:3345 wherein a Co-ordinate Bench of this Court had observed that those cases where allegations are not serious and the Complainant is in possession of evidence to prove the allegations, then there is no need to pass the orders under Section 156(3) Cr.P.C.

14. Reliance has also been placed on M/s Skipper Beverages Private Ltd. vs. State, 2001 SCC OnLine Del 448 wherein it was held where Petitioner is not in a position to collect, examine and produce the evidence before the Court, interest of justice demand that Police should step in to help the Petitioner.

15. The learned Trial Court has failed to appreciate that the Complainant had filed the photographs of the accused when they were entering the Society in a car where the Petitioner is living, that too without bearing any registration number and forcibly taking her son at the gun point. They also took phone, laptop and cash from her house.

16. It has not been appreciated that telephone call and recording have to be matched with CDR recording of Petitioner which has been placed on record and the same can be procured only by the police and has to be sent for comparison of voice of SI Solanki, Madhya Pradesh Police.



17. The Police officials Madhya Pradesh never filed an Application for *Transit Remand* and they forcibly took her son at gun point and threatened to kill him if any complaint was lodged against them.

18. These pertinent facts have not been appreciated by the learned Metropolitan Magistrate. Therefore, it is evident that without assistance of the Police, the requisite information cannot be recovered.

19. Therefore, the impugned Order be set aside and directions be given for Registration of FIR.

20. The ***Status Report has been filed on behalf of the State*** wherein it is submitted that necessary inquiry into the matter was conducted and it was found that on 25.08.2018, SI Solanki along with Constable Manjeet, Constable Surinder and Constable Rahul Chaure from Bhopal Police, arrived at Police Station Najafgarh for carrying out investigation in case FIR No.121/2018, under Sections 420/120B IPC and Sections 66C/66D IT Act, Cyber Police Station, Bhopal. DD No. 6 dated 25.08.2018 in regard to effecting of service of Notice under Section 41A Cr.P.C. to Pranjal, son of Complainant in the aforementioned case, was lodged at Police Station Najafgarh, New Delhi.

21. During further inquiry, it was revealed that on 27.08.2018, the son of the Petitioner was arrested in the aforesaid case and on the very next day, he was produced before the learned JIMC, Bhopal. The allegations of illegal detention and false implication in the criminal case, were found to be related to the above-mentioned case of the Petitioner's son and so, the Complaint filed by the Petitioner was sent to Bhopal Police for further enquiry.



22. The ***Respondent No.6/Bhopal Police in its Reply***, filed through Jayender Singh Gautam, Officiating Deputy Superintendent of Police, State Cyber Police Headquarters, Bhopal, Madhya Pradesh submitted that one Priti Sengar had given a written Application that Rs. 16,169.60 had been fraudulently debited from her account without her knowledge, even though she has not shared her Card no. or OTP with any person.

23. The Complaint letter was registered as 211/2018 and during investigations, it was found that on 17.03.2018, the bill of Customer No. B44SG0100013 of Punjab State Power Corporation Limited was paid online from the account of Complainant. It was found from payment gateway bill desk that the transaction was done through IP Address 103.7.164.54 which belonged to accused Nilesh Maheshwari. The name of the customer to whom the customer no. B44SG0100013 belonged to was found to be one Sajeev Kumar C/O Balaji R., Khera Road, Sardulgarh, District- Mansa, Punjab.

24. It was further found that a total of Rs. 2,14,900 was paid online through various transactions in the name of Sanjeev Kumar, who revealed that the Electricity Bill belongs to Shri Balaji Rice Mill, whose Manager is one Girdhari Lal Gupta. According to Girdhari Lal Gupta, he got the Electricity Bill of the rice mill for the month February, 2018 through one Naresh Kumar who is a service provider, who had paid the amount of Rs. 2,14,900 to Naresh Kumar through cheque.

25. During investigation, it was further found that an organized gang in conspiracy with each other, has been committing *cyber crimes* to pay the



Electricity Bills of commercial customers of PSPCL by illegally obtaining ATM numbers and Pin Codes of various Account Holders fraudulently.

26. Accordingly, the FIR No. 121/2018 dated 10.07.2018 was registered under Sections 66, 66C of IT Act and Sections 420, 120B IPC against the holder of I.P. Address 103.7.164.54 i.e. Nilesh Maheshwari. The beneficiary of the above stated scam were Girdhari Lal Gupta, Manager of Shri Balaji Rice Mill and agent Naresh Kumar.

27. Naresh Kumar was interrogated on 10.07.2018 who revealed that he is a member of a Whatsapp group in which one of the members with mobile No. 9554734562 messaged that he will provide discount offers, if anyone got electricity and mobile bills paid through him. He further revealed that when he talked with the above said member, he disclosed that his name is “Rahul” (alias used by accused Pranjal, who is the son of Petitioner herein). Naresh Kumar stated that he agreed to get mobile and PSPCL bills paid through “Rahul” on 3% commission after which Naresh Kumar got a lot of Bills paid through “Rahul”. Naresh Kumar revealed that he used to send the Electricity Customer Number and Mobile Number along with the bill amount to the said “Rahul”, who used to pay the said bills and inform Naresh Kumar about the same.

28. Naresh Kumar further revealed that Rahul used to give him bank account details in which Naresh used to pay the amount received from customers after deducting his commissions through Cash Deposit, IMPS transactions, Paytm etc.

29. Naresh Kumar also revealed that “Rahul” told him that his real name is *Pratham Shetty* and he gave an account no. 916020078944161 in the



name of Pratham Shetty and gave him 22 different bank account details in which Naresh used to deposit money. Naresh Kumar provided various screenshots of the receipts of money that he paid in the accounts provided by “Rahul” and provided the details of the bank accounts in which he deposited the money.

30. The accused Naresh Kumar was arrested on 10.07.2018 at 17:37 P.M. and Chargesheet No.114/2018 against accused Naresh Kumar has been filed on 06.09.2018.

31. It is further submitted that during investigations, it was found that the Mobile No. 9554734562 belonged to the son of the Petitioner who used to get the money deposited in the account of different persons who were Bitcoin sellers and not in his account. He then used the money deposited in the account of Bitcoin sellers to buy bitcoins from them. This information was given by one *Pratham Shetty* who was himself a Bitcoin seller and in whose account son of the Petitioner i.e. Pranjal had asked Naresh Kumar to deposit the illegally obtained money.

32. The Mobile No. 9554734562, used by the son of the Petitioner, was deactivated and CDR was obtained for the said number through which IMEI No. 359959084992730 of the mobile phone in which the mobile number was being used, was obtained. It was found that the owner of the above said mobile phone, has been using different SIMS in his mobile phone and the actual user of MSISDN 7508938207 SIM being used in Mobile No. IMEI No. 359959084992730 i.e. Pranjal Singh s/o Aishveer Singh, Resident of 656, Shree Awas Apartment, Sector 18-B, Dwarka, New Delhi. He was given Notice under Section 41A, Cr.P.C. on 25.08.2018 and was asked to be



present at P.S. Cyber Cell, Bhopal by the team sent to Delhi for investigation.

33. Pranjal Singh was arrested on 27.08.2018 and an Arrest Memo was prepared. He was produced before the learned Judicial Magistrate on 28.08.2018. It is submitted that Notice under Section 41A Cr.P.C. was served upon Pranjal Singh. Chargesheet No. 114(A)/2018 has also been filed on 23.10.2018.

34. It is submitted that the manner of arrest and seizing procedure, can always be questioned by the Petitioner during trial in the FIR case in which her son is facing trial.

35. It is submitted that the present Petition is devoid of any merit and deserves to be dismissed.

36. **Submissions heard and record perused.**

37. The case of the Complainant was that on 24.08.2018, the Police officials forcibly entered into her house and took away her son on gun point, and also took away the laptop, phone and money from the house of the Petitioner.

38. It has been explained in detail by the Respondents that the investigations were being carried out in FIR No. 121/2018 and the Madhya Pradesh Police had conducted the investigation in Delhi for which they had made their DD entry No. 6 dated 25.08.2018 at Police Station Najafgarh, Delhi and also served Notice under Section 41A Cr.P.C. upon the son of the Petitioner.

39. According to the Bhopal Police, during the course of investigation, it was revealed that the son of the Petitioner, Pranjal was actively involved in



facilitating multiple financial transactions through various UPI/internet banking. These transactions were allegedly made using the details of unsuspecting account holders, and the funds so obtained were diverted into accounts linked with Bitcoin sellers.

40. Not only this, Petitioner's son was produced before the Judicial Magistrate, Madhya Pradesh on 28.08.2018 and was remanded to judicial custody. Chargesheet has already been filed and the son of the Petitioner is facing trial.

41. The Petitioner has already got the CCTV/CDR of the concerned Police Officials preserved by moving an appropriate Application to the learned CMM, Delhi. In these circumstances, when the Petitioner has the CCTV footage of her colony, it can be produced at the stage of evidence.

42. The learned Metropolitan Magistrate in the Order dated 30.10.2019 as well as the learned District & Sessions Judge in the impugned Order dated 12.03.2020, has rightly observed that this is not a case which requires directions for filing FIR under Section 156(3) Cr.P.C.

43. There is no infirmity in the impugned Order and the Petition is dismissed. The pending Application(s) are accordingly, disposed of.

44. The Petitioner is at liberty to lead her evidence on her Complaint in support of her allegations.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 23, 2025

r