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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 989/2020

YOGESH KUMAR SINGH

..... Petitioner

Through: Mr. Sanjay Khanna, Ms. Pragya Bhushan & Ms. Mukta Singh, Advocates.

versus

STATE

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel and Mr. Chaitanya Gosain, Advocate along with Inspector Satyawan, SHO, PS – Sonia Vihar, for GNCTD.

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HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

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O R D E R

29.06.2020

CRL.M.A. 8348/2020

1. Exemption allowed, subject to all just exceptions.
2. The Court fees be paid within a week.
3. The application stands disposed of.

W.P.(CRL) 989/2020

4. Issue notice. Mr. Gosain accepts notice on behalf of the State.
5. The petitioner has preferred this writ petition to seek a writ of habeas corpus for production of his 18-year old daughter Akanksha Singh, who

went missing on 11.06.2020. The petitioner reported the said incident with Police Station – Sonia Vihar, which was diarised vide G.D. Entry No. 0005A at 01:52:26 A.M. on 20.06.2020. Since no action was taken on the complaint of the petitioner despite his representation made to the DCP (North-East Delhi) vide D.D. No.42, he preferred the present petition.

6. Learned counsel for the petitioner submits that the present petition was circulated to the respondents vide e-mail on 20.06.2020. The present petition was filed before this Court on 22.06.2020.

7. When the matter was taken up, the respondents have filed a status report, which has been circulated through e-mail/ WhatsApp. The same has been perused by us.

8. A perusal of the status report shows that, according to the respondents, the petitioner went to the Police Station – Sonia Vihar on 20.06.2020, and raised doubts that his daughter had been abducted by someone. It states that FIR No.245/20 under Section 365 IPC was registered at Police Station – Sonia Vihar and investigation was taken up by Inspector Hira Lal. Conveniently, the status report makes complete omission of the fact that the G.D. Entry was, firstly, recorded on 12.06.2020 vide G.D. Entry No.0005A at Police Station – Sonia Vihar at 01:52:26 A.M., and a further representation was made to the DCP (North-East Delhi) vide DD No.42.

9. The submission of learned counsel for the petitioner is that it was only after the petitioner had served an advance copy of the writ petition through e-mail on 20.06.2020, that the respondents proceeded to register the FIR and take action thereon.

10. As per the status report, the police party went to Jaipur and thereafter to Kolkata – where the petitioner's daughter was recovered with one person named Gautam @ Arsh. The statement of Akanksha was recorded, wherein she alleged that Gautam @ Arsh has threatened her that he will make her private photographs public, and on that pretext, he had taken her to Jaipur and Kolkata, and also established physical relationship with her. On the basis of the said statement, Sections 366/ 376 IPC have been added in the case. The accused has been arrested on 27.06.2020. His transit remand has been taken from the Court of C.M.M., Paschim Bardhaman, West Bengal.

11. Learned counsel for the petitioner submits that the IO of the case and the SHO of the Police Station – Sonia Vihar did not pay any heed to the complaint of the petitioner, and even the DCP did not take it seriously, despite the petitioner's representation made to him on 17.06.2020. It was only after circulation of the petition through e-mail, that the respondents have taken steps.

12. Learned counsel further submits that the petitioner was made to bear all the expenses of the Police party's travel to, and stay at, Jaipur and Kolkata, and the petitioner was even made to host a party for the police personnel at Jaipur. The SHO, P.S. Sonia Vihar is also present during the video – hearing and he denies these allegations. He submits that the expenses for travel, boarding and lodging of the police party were borne by the department.

13. The aforesaid statement of learned counsel for the petitioner – if true, raises serious concerns about the functioning of the police force. It is clear to us that the SHO, Police Station – Sonia Vihar and the IO concerned were

absolutely indifferent to the complaint made by the petitioner since they did not even register a case on receipt of the petitioner's complaint on 12.06.2020 vide G.D. Entry No. 0005A. The FIR was registered only on 20.06.2020 – after the advance copy of the writ petition was circulated by the petitioner to the respondents. There is no explanation as to why there was delay of 8 days in the matter of registration of the FIR and in the matter of conduct of investigation.

14. The submission of learned counsel for the petitioner that the petitioner was made to bear the expenses for the travel of the police party to Jaipur and to Kolkata, and to provide hospitality to them at these places is even more serious. Learned counsel for the petitioner submits that he is even possessed of the bills of the expenses borne by him. As noticed above, these allegations are denied by the SHO, PS Sonia Vihar.

15. Learned counsel for the petitioner has further submitted that when the petitioner's daughter was taken for medical examination yesterday, the IO insisted that her internal examination be not conducted, since she had taken bath after establishing relationship with the accused. On that basis, the physical examination was not conducted, even though the petitioner's daughter wanted her internal examination to be conducted. If this is true, it raises serious question about the role played by the police. It is not for the police to take a call on these aspects.

16. Though the petitioner's missing daughter has been located and returned to her parents, we are of the view that the investigation cannot be allowed to remain in the hands of the officers at Police Station – Sonia Vihar. Accordingly, we transfer the investigation in this case to the Crime

Branch forthwith. The I.O. to whom the case is assigned shall have the internal examination of Akansha Singh conducted without any delay.

17. We also direct the Commissioner of Police to grant an audience to the petitioner and his counsel, and they shall disclose to him the manner in which the police has allegedly misused its authority. They shall produce all the documents/ bills to substantiate their claim that they expended amounts for the travel, lodging and boarding of the police party at Jaipur and Kolkata. The Commissioner of Police shall examine all the material, including by calling upon the SHO, PS Sonia Vihar to produce proof of expenditure incurred by the Police Department for the said visits, and on that basis, if a case is made out of misuse of authority, take appropriate action against the IO/ SHO and all other concerned. In case the grievance of the petitioner is found to be fully/ partially justified, the Commissioner of Police shall order refund of the amounts expended by the petitioner for taking the police party to Jaipur and Kolkata and to host them at the said locations. Further Action Taken Report be filed in this regard before the next date.

18. List on 14.07.2020.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JUNE 29, 2020

B.S. Rohella