

**IN THE COURT OF SH. DEVENDER KUMAR JANGALA
ADDITIONAL SESSIONS JUDGE-05, PHC, NEW DELHI**

**SC No. 360/2018, FIR No. 75/2018
State Vs Deepak Gaur: PS Parliament Street
U/s 153A/505/120B/34 IPC**

27.05.2023

Present: Sh.Dharam Chand, Ld. Sub. Additional PP for the state.
Sh.Anuj Sharma & Sh. Ravi Baghel, Ld. Counsel for
complainant Sh. Anil Tanwar.
Sh. Mehmood Pracha, Sh. Sanawar Chaudhary, Sh. Raja
Ram, Sh. Harshit S. Gahlot, Ld. Counsel for complainant
Harnam Singh.
Inspector Attar Singh, SHO PS Parliament Street in
person.

1. IO/ACP Ajay Gupta is absent. No written intimation is
received on behalf of IO/ACP Ajay Gupta.

2. On 17.05.2023, following order was passed by this court:

“ In the present case on the last date of hearing it was observed that :

“It is pointed out by the Ld. Counsel for the complainant that despite filing of the Protest Petition, the IO has fails to even ask the complainants to join the investigation. It is also stated that the perusal of reply dated 28.02.2023 filed by IO to the protest petition would reveals that no step has been taken by the IO to conclude the investigation after 28.07.2022.

The perusal of record reveals that the submissions made by Ld. Counsel for complainant are true that despite filing of protest petition, the IO has fails to join the complainant in investigation. The complainants have furnished the recording/DVD of the incident showing new evidence, therefore IO was atleast required to ask the complainant to join the investigation. It is also true that sincere steps to conclude the investigation has not been taken by the IO.

There seems to be no progress in the investigation, which shows willful neglect of duties by the IO. Section 4 of the SC & ST (Prevention of Atrocities) Act provides punishment for neglect of duties. One of the duty mentioned under Section 4 of SC & ST (Prevention of Atrocities) Act is to conduct the investigation and file charge sheet in the court within a period of 60 days and explain the delay, if any in writing. The FIR in the present case was registered on 10.08.2018 for commission of offence punishable under Section 153A/505/120B/34 IPC and Section 2 of the Prevention of Insults to National Honour Act, 1971 and Section 3 (u) of SC & ST (Prevention of Atrocities) Act. Therefore, as per mandate of Section of 4 SC & ST (Prevention of Atrocities) Act the investigation was required to be completed within a period of 60 days and if not so at the earliest. Section 4 of SC & ST (Prevention of Atrocities) Act cast a duty upon the investigating officer to conclude the investigation at the earliest and diligently.

It is submitted by Ld.counsel for the complainants that cognizance of commission of offence punishable under Section 4 of the SC & ST (Prevention of Atrocities) Act may kindly be taken against the IO for his neglect of duties.

In the present facts and circumstances, the Joint Commissioner of Police, New Delhi Range is directed to ensure the completion of investigation under his supervision within 15 days from the date of receipt of copy of this order. Joint Commissioner of Police, New Delhi Range is also directed to file his report with regard to inordinate delay/willful neglect of duties by IO/ACP Ajay Gupta”.

A compliance report under the signatures of Sh. Pranav Tayal, DCP, New Delhi District is placed on record. It is stated that inquiry in the matter was conducted by DCP Addl.DCP-I/NDD and during inquiry no willful neglect of duties was found on the part of IO/ACP Ajay Kumar Gupta. It is also reported that FSL result, prosecution sanction in respect of 10 accused persons, certified copies of CDRs and reply from facebook are yet to be received.

The perusal of reply filed on behalf of Additional Commissioner of Police reveals that the inquiry conducted against the IO, is nothing more than an eyewash. There was observation by this court that there appears to be willful neglect of duties on the part of Investigating officer(s). The FIR was registered in the year 2018 but despite expiry of about five years the investigation is not yet concluded. Even the reply filed on behalf of Joint Commissioner of Police/Additional Commissioner of Police, New Delhi Range itself reveals that the material part of investigation is still pending. The Joint Commissioner of Police/Additional Commissioner of Police has fails to seek explanation regarding inordinate delay in obtaining the FSL result, applying for certified copies of CDRs and issuance of notice to the social media platform/facebook. It is clear that the police authorities kept sleeping over the matter until stern order has been passed by this court on the last date of hearing.

In view of above, issue fresh notice to Additional Commissioner of Police, New Delhi Range to conduct fresh inquiry with regard to willful neglect of duties by investigating officers for such an inordinate delay in completion of investigation despite registration of FIR in the year 2018, which is pending till 2023. Additional Commissioner of Police concerned is directed to obtain explanation from the IO(s) with regard to the delay in seeking the reply from facebook, obtaining certified copies of CDRs, delay in applying for prosecution sanction and failure of IO to timely sent the exhibits to FSL. The report by Additional Commissioner of Police be filed on or before next date of hearing i.e. **27.05.2023.**

It need not to apprise the Additional Commissioner of Police that as per provisions of SC & ST (Prevention of Atrocities) Act the investigation is required to be completed within a period of sixty days and even the supplementary charge sheet is required to be filed without any delay.

Copy of this order be also sent to Special Commissioner of Police of concerned Range”.

3. In compliance of order dated 17.05.2023, a report under the signatures of Sh. Pranav Tayal, DCP, New Delhi District, New Delhi is placed on record wherein it is stated that enquiry has been entrusted to Addl. DCP-I/South West District but due to paucity of time, enquiry could not be completed.

4. On the last date of hearing the Additional Commissioner/Joint Commissioner of Police has been apprised that as per provisions of SC & ST (Prevention of Atrocities) Act, investigation is required to be completed within 60 days and even the supplementary charge sheet is required to be filed without any delay, however despite such specific observation made by this court and reminding the Additional Commissioner/Joint Commissioner of Police, even the status report with regard to completion of investigation is not filed before this court.

5. This court has repeatedly requested the investigating officer and senior officers to conclude the investigation which is pending since the year 2018 against the mandate of provisions of SC & ST (Prevention of Atrocities) Act to conclude the investigation within 60 days. It is really disheartening to note that despite specific observation made by this court with regard to the delay in conducting investigation, the investigating officer has fails to fall in line. A copy of order was also sent on the last date of hearing to Additional Commissioner/Joint Commissioner and Special Commissioner of Police with a view that bringing the matter into the knowledge of senior police officers may yielded some result but it appears that senior police officers are also sleeping over the matter.

6. The present case is a classic example where the observation made by Hon'ble Supreme Court in **National Campaign on Dalit Human Rights Vs. Union of India, (2017) 2 SCC 432** is squarely applicable. The Hon'ble Supreme Court in case (supra) has observed that “We have

carefully examined the material on record, and we are of the opinion that there has been a failure on the part of the authorities concerned in complying with the provisions of the Act and the Rules. The laudable object with which the Act had been made is defeated by the indifferent attitude of the authorities”.

7. **In view of the above, IO ACP Ajay Gupta is directed to remain present in the court on the next date of hearing alongwith status of investigation conducted.**

8. **Special Commissioner of Police(concerned Range) is directed to ensure speedy investigation of the case, keeping in view the mandate of provisions of SC & ST (Prevention of Atrocities) Act. Special Commissioner of Police(concerned Range) is directed to file the status report with regard to steps taken to ensure the speedy investigation in the present matter on or before next date i.e. 08.06.2023. The Special Commissioner of Police (concerned Range) is also directed to file the report in terms of above order under his own signatures.**

9. **Copy of this order alongwith copy of order dated 17.05.2023 be also sent to Commissioner of Police, Delhi Police to bring into his knowledge the conduct of the police officials i.e. IO, DCP, Additional/Joint Commissioner of Police, New Delhi concerned.**

10. **Be put up for report on 08.06.2023.**

**(Devender Kumar Jangala)
ASJ-05, NDD/PHC/New Delhi
27.05.2023**