

**IN THE COURT OF SH. LOKESH KUMAR SHARMA
ADDL. SESSIONS JUDGE (SFTC) :
DWARKA COURTS : NEW DELHI**

CNR No: DLSW01-010327-2022

CR No: 479/2022

PS: Palam Village

(In CC No. 1415/2021

Lalita @ Sony v/s Shobha Devi

U/s 156(3) CrPC)

Lalita @ Sony

W/o Sh. Ravi Kumar

R/o: H.No. RZG-151,

Raj Nagar Part - II, Palam Colony,

South West, Delhi - 110077.

....PETITIONER

Versus

1. The State

Through

Station House Officer

Police Station, Village Palam

New Delhi.

2. Shobha Devi

D/o Late Sh. Umrao Singh

R/o: H.No. RZG-151,

Raj Nagar Part - II, Palam Colony,

South West, Delhi - 110077.

3. Deepak Saini

S/o Late Umrao Singh

R/o: H.No. RZG-16/5, Gali no. 2,

Raj Nagar - II, Palam Colony,

South West, Delhi - 110077.

4. ASI Tarsem

PIS No: 28884290
Presently posted at
PS Palam, New Delhi.

5. Raj Kumar/ Police officer
Presently posted at
PS Palam, New Delhi.

....**RESPONDENT(s)**

Date of Institution	:	06.10.2022
Order reserved on	:	17.02.2023
Date of Decision	:	17.02.2023

ORDER

1. Feeling aggrieved from the order dated 23.06.2022, passed by the Court of Sh Paras Dalal, Id. MM-01, South West, Dwarka Courts, in Cr. Case 1415/2021, titled as 'Lalita @ Sony v/s Shobha Devi & Ors', whereby Id. MM was pleased to dismiss the application preferred by petitioner under Section 156(3) CrPC, vide his detailed order, after discussing all her submissions and contentions, the petitioner has challenged the same on the following amongst other grounds :

(a) That the impugned order was passed by Id. Trial Court in a mechanical manner without considering the relevant facts and it lacked application of judicious mind;

(b) That the Id. Trial Court while passing the impugned order dated 23.06.2022, had wrongly considered and

relied upon the judgment passed by Hon'ble High Court of Delhi in *M/s Skipper Beverages Pvt. Ltd. v/s State, 2001 IV AD (Del) 625*, as the petitioner had clearly furnished the entire factum of the case in her complaint, which had clearly shown that relevant evidence as well as documents which were to be procured and proved in this case were beyond her control and possession and same could not be procured without the assistance of police, however, Id. Trial Court had bluntly overlooked the same and passed the impugned order;

(c) That the Id. Trial Court had failed to consider the fact that DD No. 15A and Preventive Action Report had mentioned the existence of DD No. 145 but no such entry had been provided by the police officer;

(d) That the Id. Trial Court while passing the impugned order had totally failed to take into consideration the conduct of concerned IO/ SHO as they had failed to file the ATR despite repeated directions issued by Id. Trial Court vide several orders and ultimately the status report dated 26.04.2021, was filed by DCP concerned and even the said status report was improper, arbitrary and misleading as the DCP had also straightforwardly denied providing the data and suppressed the same.

(e) That the Id. Trial Court had been ignorant about the fact that mandatory provision under Section 154 CrPC was not complied by IO/SHO as there was absence of Women Help Desk and all the information made/ procured by the petitioner was entrusted to IO/ASI Tarsem Lal, against whom a vigilance inquiry was already initiated at her instance;

(f) That the Id. Trial Court had failed to consider the relevancy of DD No. 35A dated 19.06.2021, which clearly reflected that a cognizable offence had been committed by respondents by using a sharp edged weapon and even ASI Tarsem Lal along with Const. Rajinder had mentioned in the said DD that they had visited the spot of occurrence and conducted the inquiry, however, the fact was that no such inquiry was ever conducted by them, rather it was the petitioner, who after failing to get any assistance from the concerned IO, had visited the DDU Hospital herself and had narrated the entire incident to the Doctor and the said Doctor had handed over the medical documents to her for handing over the same to IO/ASI Tarsem Lal;

(g) That the Id. Trial Court had completely failed to consider that IO/ASI Tarsem Lal to whom the complaint of petitioner was entrusted, had lodged DD No. 81 dated 19.06.2021, which was totally contrary to facts of the actual complaint made by her vide DD No. 35A dated 19.06.2021, and had further failed to consider the fact that ASI had completely

changed the fact of commission of a cognizable offence into a property dispute.

(h) That the contents of DD No. 81A dated 19.06.2021, had stated about a property dispute between the parties, hence, preventive action had been taken. It also stated that whenever there was a dispute of civil nature in respect of the property, the proceedings u/s 107 CrPC should not have been resorted by Id. SEM. Reliance in this regard has been placed upon the citation of ***Ram Narain Singh v/s State of Bihar, 1972 AIR 2225;***

(i) That the Id. Trial Court had not considered the fact that IO had not proceeded in accordance with law in response to the complaint made by petitioner and had exceeded his official powers by booking the petitioner/revisionist in a false kalandra/ proceeding without honoring the law laid down by Hon'ble High Court in ***Purshottam Ramanani v/s Govt. of NCT of Delhi, W.P. (Crl.) 1392-2007;***

(j) That the Id. Trial Court had failed to consider the fact that petitioner herself had visited the hospital for treatment and doctor had prepared the MLC No. 118147 dated 19.06.2021 at 11:25:41am and had advised her to visit Police Station. Even the Id. Trial Court had failed to consider that the said MLC had also disclosed that the patient was not brought to the hospital by

any police officer and ASI had not visited the place of occurrence on that day, rather the said ASI had taunted and insulted her while sitting at Police Station and by registering DD No. 81 after a delay of more than 9 hours, the said IO/ASI Tarsem Lal had changed the actual information of commission of a cognizable offence into his own self-procured statement and had changed the nature of information into a non-cognizable/ civil dispute.

(k) that the Id. Trial Court had also completely failed to consider the fact that petitioner had immediately informed the senior officer of the police station in writing on 21.06.2021 vide complaint no. 6844, wherein, she had reiterated her version and had also stated that she had a threat to her life from respondent Deepak Saini.

(l) That the Id. Trial Court had completely failed to consider that police officials of PS Palam Village had harassed the petitioner and her husband and created immense pressure upon them by calling them to Police Station on 05.07.2021, and had later pressurized them to sign blank document, which was later on converted into a withdrawal statement, regarding which, one complaint was also made by complainant to Commissioner of Police vide complaint no. 8473 dated 20.07.2021, and the status report filed by DCP also affirmed the same.

(m) That the Id. Trial Court had completely failed to consider that police had not conducted a proper and adequate inquiry into the allegations raised by complainant on different occasions, rather it had skipped its statutory liability under the garb of civil litigation pending between the parties;

(n) That the Id. Trial Court had failed to consider that petitioner was the informant in DD No. 35A and preventive action was taken by IO/ASI Tarsem Lal vide DD No. 81A against her, which fact had shown that he was completely ignorant about the rights of a victim/ petitioner and thus amounted to an act to cause injuries to her and wrongful gain to wrongdoers. Reliance in this regard had been placed on the citation of *Asha Pant v/s State, 2008 (102) DRJ 216*;

(o) That the status report dated 26.04.2021, further revealed that on 28.09.2021, NCR no. 35/2021 under Section 323 IPC was registered by IO/ASI Tarsem Lal which revealed that the DD No. 35A and MLC No. 7375/2021 dated 19.06.2021, both were not procured by the IO, rather the same were provided to him by the petitioner. It has been further averred that Id. Trial Court had completely failed to consider that IO/ASI Tarsem Lal had intentionally, deliberately and under the full state of mind, changed the whole case of complainant since its inception vide DD no. 35A till the last action taken on it vide NCR no. 35 dated 28.09.2021. Even the IO/ASI Tarsem Lal had voluntarily

changed the date, time, description of offence and DD number of petitioner's case, only for the sake of justifying his unlawful acts.

(p) That the Id. Trial Court had failed to consider the fact that IO/ASI Tarsem Lal had committed an offence of perjury whereby he had misled Id. Trial Court by deposing wrong and false facts contrary to documents/ complaints i.e. DD no. 35A dated 19.06.2021 and NCR no. 35A dated 28.09.2021;

(q) That the Id. Trial court had further failed to consider the DD entries which revealed that petitioner was slapped by Smt. Shobha Devi in the presence of police officials, however, the same were missing from the contents of DD entries no. 8A and 14A;

(r) That the Id. Trial Court had failed to consider that petitioner had already made complaints against IO/ASI Tarsem Lal for his dereliction of duties upon which a vigilance inquiry had also been initiated against him;

(s) That the Id. Trial Court had failed to consider that petitioner had prayed for preservation of essential evidence i.e. CCTV footage, which had to be secured immediately but the police had failed to pay any heed to the same and they were trying to take advantage of their own wrongdoings.

(t) that the Id. Trial Court had further failed to consider that DCP had grossly mislead and misrepresented the Court by filing the status report dated 26.04.2021, which stated that PCR data had been crashed from 15.11.2020 till 05.03.2022, wherein, it had been specifically averred that the allegation of petitioner being slapped by Smt. Shobha in the presence of police official was missing from DD No. 8A and 14A, and the same must have been reflected in the PCR form, because of which police had concealed, suppressed and hidden the PCR details from the trial Court.

(u) that the Id. Trial Court had miserably failed to comply with the directions laid down by Hon'ble Apex Court in para no. 17 of case titled as ***Paramvir Singh Saini v/s Baljit Singh & Ors., SLP No. 3543 of 2020.***

(v) That the Id. Trial Court had failed to consider the fact that concerned SHO and the DCP had not followed the standing order(s) no. 451/2017 and 448/2017, wherein procedure and guidelines were issued by police for seizure of CDR, location, CCTV footage. Reliance in this regard had also been placed in the case titled as ***Pooja Khetan v/s Govt. of NCT of Delhi & Ors., W.P(Crl.) No. 1006 of 2015 decided on 18.09.2018.***

In the light of aforesaid averements, it was prayed that the impugned order was liable to be set aside and there was a need for issuance of direction to the police to register FIR in this case.

2. I have heard Sh. Bhisham Singh, Id. Counsel for petitioner and in rebuttal by Sh. Aditya Kumar, Id. Addl. PP for State/ respondent no. 1, Sh. R.K.Bachan, Id. Legal Aid counsel for respondent no. 2, Sh. Ravinder Kumar, Id. Legal Aid counsel for respondent no. 3, Sh. Prince Sharma, Id. Counsel appearing for respondent o. 4 and Sh. Vinay Sharma, Id. Counsel appearing for respondent no. 5.

3. I have also meticulously and scrupulously gone through the entire material placed on record by either parties.

4. Sh. Bhisham Singh, Id. Counsel appearing for petitioner has stated that due to petitioner having been attacked with '*darat*' (sickle), the respondents no. 4 and 5 had failed to take any action and had also relied upon one typed copy of MLC. Once he was asked to produce the original MLC of which the document was stated to be the typed copy appearing at page no. 67 of the paperbook, then he had stated that same had been taken away by the police officials, which was quite strange, that despite claiming that police officials had clearly refused to render any assistance to the petitioner which compelled her to go to the hospital and got her MLC prepared herself but it had not been

mentioned and explained as to what had prompted her to hand it over to the police official, which was a very vital piece of evidence and that too, to the same person who had denied her any assistance and was non-cooperative since beginning.

5. Even the PCR call which was made by her does not talk about use of any sickle and if the PCR call made by her was to be relied upon, then as per its contents, only an attempt was alleged to have been made by respondents no. 2 and 3 to attack her with a knife, which was totally different from a sickle.

6. I have examined the impugned order, wherein, Id. MM had dealt in detail in para no. 2 of the said order about the Action Taken Report filed by IO and perusal of the same reflects that petitioner was booked under preventive action under Section 107/151 CrPC and NCR no. 35/2021 u/s: 323 IPC was also registered on 23.09.2021, after examining the nature of injuries on the second MLC which was got prepared by the police in respect of petitioner.

It has also been stated by Id. Counsel for the petitioner that police investigation/ intervention is required in this case as they would be specialized to collect the CDR and other documents.

Admittedly when the parties were residing in the same premises and it was the case of causing of injuries

simplicitor as alleged, I do not find it necessary for issuing any directions to the police officials to collect CDR and even otherwise also, the petitioner was at liberty to summon the requisite record in her evidence on a complaint filed by her u/s 200 CrPC which is still pending disposal and in case of injuries, no documents are required to be procured.

7. Hence, I have no hesitation in holding that Id. MM had dealt in detail with all the contentions raised by petitioner in her complaint and had passed the impugned speaking order by exercising his mind judiciously which does not suffer from any illegality or infirmity warranting an interference by this Court in exercise of its revisional powers and jurisdiction.

8. Accordingly, the present revision petition is dismissed being devoid of any merits. However, keeping in view the fact that petitioner is a lady, I am refraining myself from imposing an exemplary cost upon her for wasting the precious judicial time of Court.

9. Copy of the order be sent to Id. Trial Court for information. Revision petition be consigned to record room after compliance of necessary legal formalities.

ANNOUNCED IN THE OPEN COURT
DATED: 17.02.2023

(LOKESH KUMAR SHARMA)
ADDL. SESSIONS JUDGE (SFTC)
DWARKA COURTS : NEW DELHI