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

+ **W.P.(CRL) 3014/2024**

GAURAV VASHISHT

.....Petitioner

Through: Mr. Tushar Mahajan and Mr.
Bhaavan Mahajan, Advocates with
petitioner in person.

versus

STATE GNCTD & ORS.

.....Respondents

Through: Mr. Sanjeev Bhandari, ASC for the
State with Insp. Shishpal, SHO, P.S.:
Nihal Vihar.
SI Manoj Kumar and SI Jagmohan,
P.S.: Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **27.09.2024**

CRL.M.A. 29312/2024 (exemption)

CRL.M.A. 29313/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The applications stand disposed of.

W.P.(CRL) 3014/2024

By way of the present petition filed under Article 226 of the Constitution of India, the petitioner seeks a direction transferring the investigation in FIR No. 1050/2023 dated 11.08.2023 registered under sections 323/341/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Nihal Vihar, Delhi *and* in FIR No. 1347/2023 dated 13.10.2023 registered under section 435 of the IPC at P.S.: Nihal Vihar, Delhi *to*



the Crime Branch, Delhi Police or some other ‘impartial’ investigating agency.

2. The genesis of the matter is a dispute that the petitioner, who is a practising advocate, has had with certain builders operating in the area where he resides; the petitioner’s case being that the builders were indulging in unauthorised construction and were blocking public roads and pathways in the process of carrying-out such construction in their locality.
3. In that context, the petitioner had made certain complaints to the Municipal Corporation of Delhi (‘MCD’), arising from which certain action ensued, including by way of an order dated 31.07.2023 passed in W.P.(C.) No. 9985/2023 by which a Co-ordinate Bench of this court had issued certain directions to the authorities to take action against the unauthorised construction.
4. Mr. Tushar Mahajan, learned counsel appearing for the petitioner submits, that since there was disobedience of order dated 31.07.2023 passed in W.P.(C.) No.9985/2023, the petitioner was constrained to move a contempt petition bearing CONT. CAS(C) No. 1480/2023; and *vide* order dated 11.10.2023 made in the contempt proceedings, a Co-ordinate Bench of this court recorded the MCD’s representation that they had already taken action pursuant to the said order, and that further action in accordance with law would be taken expeditiously in relation to the unauthorised construction. The contempt petition was disposed-of taking the MCD’s statement on record.
5. Learned counsel submit, that on 13.10.2023, *i.e. merely two days* after order 11.10.2023 came to be passed, the petitioner’s car parked



outside his residence was set on fire by a miscreant, which led the petitioner to file FIR No. 1347/2023 but no proper action was taken by the local police in that FIR.

6. Learned counsel has taken the court through the documents appended to the present petition, to show that the local police have failed in taking proper action on FIR No. 1347/2023, and have now taken the stand before the learned JFMC, Tis Hazari District Courts, New Delhi that the accused in that person remains 'untraced'. In this behalf, attention is drawn to order dated 21.09.2024 passed by the learned Magistrate in Cr. Case No. 499/2024 titled ***State vs. Unknown***, in which order the learned Magistrate has in fact observed, that since the person accused *is seen in the CCTV footage* burning the car by throwing oil on it, the Investigating Officer ('I.O.') simply cannot shrug his responsibility by saying that the CCTV footage is not clear. In this backdrop, the learned Magistrate has issued notice to the concerned S.H.O. to further investigate the matter in true earnest and to file a supplementary chargesheet, and that matter has been posted next before the learned Magistrate for 08.11.2024.
7. Mr. Mahajan submits, that the lack of serious investigation on the part of the local police is evident from the record, which is why the petitioner has been constrained to approach this court, seeking transfer of investigation of the two FIRs to the Crime Branch, Delhi Police or to some other 'impartial' investigation agency.
8. The court has also heard the petitioner, who is present in court; who has also expressed serious apprehension as to his own safety and the safety of his spouse and young sons, at the hands of the builders,



against whom he had made complaints in relation to unauthorised construction and encroachment of public roads and pathways.

9. Issue notice.
10. Mr. Sanjeev Bhandari, learned ASC appears on behalf of the State on advance notice; accepts notice; and seeks to personally inquire into the matter and file an appropriate status report.
11. Learned ASC submits, that he would take-up the concerns raised by the petitioner with the higher police authorities; and would file the specifics of the steps taken by the Investigating Officer in relation to the subject FIRs.
12. Considering the sensitive nature of the matter, and the vulnerability expressed by the petitioner, let the status report be filed under the hand and signature of the concerned DCP. Let the status report also specify as to whether any inquiries have been made against and whether any statements have been recorded of the local builders, whose names appears in para 6(b) of the petition.
13. Let status report be filed at least 05 days before the next date; with copy to the opposing counsel.
14. In the meantime, considering the circumstances of the case, the S.H.O., P.S.: Nihal Vihar, Delhi is directed to ensure the safety and security of the petitioner and his family, particularly against any threats by the builders whose names appear in para 6(b) of the present petition.
15. The court also notices that *vide* order dated 19.01.2023 passed in W.P.(CRL.) No. 3039/ 2022 and order dated 29.08.2023 passed in W.P.(CRL.) No. 2457/2023, the concerned S.H.O. has already been



directed to give his own cellphone number, as well as number of the concerned Beat Constable, to the petitioner, who the petitioner may call in any eventuality.

16. Re-notify on 18th November 2024.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 27, 2024/VLD