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

+ I.A. 1273/2020, I.A. 4957/2020(Stay), I.A. 5047/2020(for amendment in Plaint, I.A. 8491/2020(U/O 39 R.2A CPC) in CS(OS) 148/2018

THE YOUNG MENS CHRISTIAN ASSOCIATION OF
ERNAKULAM & ORS Plaintiffs

Through: Mr.P.I.Jose, Adv.

versus

NATIONAL COUNCIL YMCAS OF INDIA Defendant

Through: Ms. Haripriya Padmanabhan,
Mr. Puneet Jaiswal and Mr. Shrutanjaya
Bharadwaj, Advs. for D-1

Mr. Manu Krishnan, Adv. for D-4

Mr. Ranjay N. Adv. for D-5 & 6

Mr. Koshy John, Adv. for D-7

Mr. S. Nagamuthu, Sr. Adv. assisted by Mr.
Kishore Kumaar, Adv. for D- 8 & D-10

Mr. G. S. Balamurugan, Adv. for D-11

Mr. Rahul Mehra, Standing Counsel
(Criminal), GNCTD with Mr. Chaitanya
Gosain & Mr. Anand Thumbayil, Advs.
with SI. Sandeep Kumar Ahlawat, PS
Connaught Place

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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06.10.2020

(Video-conferencing)

I.A. 1273/2020 in CS(OS) 148/2018

1. This application had come up before this Court on 18th February, 2020.



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2. This application essentially seeks that the complaint, dated 9th December, 2019, filed before the SHO, PS Connaught Place be taken on record and that a direction be issued to the SHO, PS Connaught Place to register an FIR, on the basis of the complaint.

3. On 18th February, 2020, Mr. Rahul Mehra, learned Standing Counsel (Criminal), GNCTD, had responded to this request by submitting that the transaction took place entirely in Chennai, and that, therefore, investigation, if any, would have to be carried out by police authorities in Chennai.

4. This Court had recorded the said submission and directed Ms. Haripriya Padmanabhan, learned counsel for the applicant, to take instructions.

5. Today, Ms. Padmanabhan submits that SHO, PS, Connaught Place could, at the very least, have registered a zero FIR.

6. Mr. Mehra further submits that the investigation has been transferred to the police authorities at Chennai on 6th March, 2020.

7. In my view, it would be appropriate that the said stand of the police authorities is placed on record, before passing final orders on this application.

8. Mr. Rahul Mehra undertakes to file a response to this



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application within two weeks, with advance copy to learned counsel for the applicant, who may file rejoinder thereto, if any, within one week thereof.

9. Renotify for hearing and disposal on 24th November, 2020.

I.A. 4957/2020 (Stay) in CS(OS) 148/2018

1. Ms. Padmanabhan submits that she has received the reply to this application, on behalf of Defendants No. 8 to 10, but has not received any reply from Defendant No. 11, though Mr. G. Sivabalamurugan, learned counsel appearing for Defendant No. 11, submits that they have filed a separate affidavit.

2. The record of these proceedings, as on today, contains responses only on behalf of Defendant Nos. 8 and 9 to this application.

3. No reply, by Defendants Nos. 10 and 11 or by any other defendants, to this application, is on record.

4. Learned counsel for Defendants Nos. 10 and 11 are directed to coordinate with the Registry and ensure that the replies, to this application, are placed on record.

5. Learned counsel for Defendant No.11 is also directed to email, to Ms. Padmanabhan, during the course of the day, a copy of the reply that is proposed to be filed to this application.



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6. Ms. Padmanabhan seeks and is granted two weeks time to file rejoinder to the replies of Defendant Nos. 8 and 11.

7. Ms. Padmanabhan also submits that the property in question, forming subject matter of this application, includes certain areas in which students of the YMCA College of Physical Education, Chennai, would be playing and participating in outdoor activities, consequent to the relaxation of the lockdown restrictions imposed by the State government. She apprehends that the students would be hindered, from peacefully, availing the facilities of the premises, by Defendants Nos. 8 to 11.

8. Mr. S. Nagamuthu, learned Senior Counsel, assisted by Mr. Kishore Kumar, learned counsel, appearing for Defendants Nos. 8 to 10, undertakes that they would not interfere, in any manner, with the students who may seek to avail the facilities of the premises forming subject matter of consideration in this application.

9. Renotify this application for hearing and disposal on 24th November, 2020.

I.A. 5047/2020 (for amendment in Complaint) in CS(OS) 148/2018

1. This is an application under Order 6 Rule 17 CPC of the CPC, preferred by the plaintiff.

2. Of the applicants who contest this application, the only response on record is of Defendant No. 5.



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3. Mr. Ranjay N., learned counsel appearing for Defendant Nos. 5 and 6, however, submits that Defendant No. 6 would be adopting the response of Defendant No. 5.

4. Learned counsel for the plaintiff as well as of Defendant Nos. 5 and 6 submit that the amendment sought in this application does not affect Defendant No. 7.

5. There is no response by Defendant No. 7 to this application; neither does anyone appear on behalf of Defendant No. 7 today.

6. Mr. S. Nagamuthu, learned Senior Counsel, assisted by Mr. Kishore Kumaar, learned counsel, appearing for Defendant Nos. 8 to 10, submits that a response has been filed by the said defendants, to this application, on 3rd October, 2020.

7. However, no reply is forthcoming on record. He is directed to coordinate with the Registry and ensure that the reply, to this application, is placed on record, prior to the next date of hearing.

8. Mr. G. Sivabalamurugan, learned counsel for Defendant No. 11, submits that he had not received copy of this application.

9. Mr. Jose has emailed copy of the application to Mr. G. Sivabalamurugan today.



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10. Mr. G. Sivabalamurugan seeks and is granted two weeks to file a response to this application, with advance copy to learned counsel for the applicant/petitioner, who may file rejoinder thereto, if any, within one week thereof.

11. There is no appearance on behalf of Defendant No. 12.

12. On the applicant taking necessary steps, issue fresh notice to Defendant No. 12, who may file a response to this application, if any, within three weeks, with advance copy to learned counsel for the applicant/petitioner, who may file rejoinder thereto, if any, within one week thereof.

13. The Registry would also place on record the status of service of this application on Defendant No. 12, before the next date of hearing.

14. Renotify on 24th November, 2020.

I.A. 8491/2020 (U/O 39 R.2A CPC) in CS(OS) 148/2018

1. The only parties, contesting this application, are Defendant Nos. 8 and 9, who are both represented by Mr. Kishore Kumaar.

2. Counter affidavit, on behalf of the said defendants, is on record.

3. Ms. Padmanabhan seeks and is granted two weeks time to file rejoinder thereto.



4. List this application for hearing and disposal on 24th November, 2020.

OCTOBER 6, 2020
dsn

C. HARI SHANKAR, J.