

20.06.2020

Through Video conferencing at 12:10 pm.

This is an application for releasing articles i.e Rs.5000/-, ATM and two carry bags containing five lowers each.

Present : Ld. APP for the State.

Applicant Manish Kumar joined meeting through Cisco Webex.

IO has filed his reply.

Instead of releasing the articles on superdari, this Court is of the view that the articles has to be released as per directions of **Hon'ble High Court of Delhi** in matter of "**Manjit Singh Vs. State**" in CrI. M.C. No. 4485/2013 dated 10.09.2014.

Hon'ble High Court of Delhi in above-said judgment/order while relying upon the judgments of **Hon'ble Supreme Court of India** in matter of "**Sunderbhai Ambalal Desai Vs. State of Gujarat**", AIR 2003 SUPREME COURT 638, "**General Insurance Council & Ors. Vs. State of Andhra Pradesh & Ors.**" Writ Petition (C) No.14 of 2008 decided on 19.04.2010 and "**Basavva Kom Dyamangouda Patil Vs. State of Mysore**", (1977) 4 SCC 358 has held :-

"59. The valuable articles seized by the police may be released to the person, who, in the opinion of the court, is lawfully entitled to claim such as the complainant at whose house theft, robbery or dacoity has taken place, after preparing detailed panchnama of such articles, taking photographs of such articles and a security bond.

60. The photographs of such articles should be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Whenever necessary, the court may get the jewellery articles valued from a government approved valuer.

61. The actual production of the valuable articles during the trial should not be insisted upon and the photographs along with the panchnama should suffice for the purposes of evidence.

Considering the facts and circumstances and law laid down by **Hon'ble High Court of Delhi**, articles in question as per reply be released to the applicant on furnishing security bond as per valuation report of the articles and after preparation of panchnama and taking photographs of articles as per directions of **Hon'ble High of Delhi** in above cited paragraphs. IO is directed to get the valuation done of the articles prior to the release the same to the applicant as per directions of **Hon'ble High Court of Delhi**. Panchnama, photographs, valuation report and security bond shall be filed along-with final report.

Application stands disposed off accordingly. One copy of order be uploaded on Delhi District Court website. Copy of order be also sent to the e-mail of SHO PS Civil Lines. The print out of the application, reply and the order be kept for records and be tagged with the final report.

(MANOJ KUMAR)

MM-06/THC/Central/20.06.2020

20.06.2020

Through Video conferencing at 11:57 am.

This is an application for releasing article i.e mobile phone.

Present :

Ld. APP for the State.

Applicant/complainant Raj Kumar not joined the meeting despite intimation.

IO/ASI Anil Kumar in person.

Connected through Cisco Webex.

Reply of IO shows that complainant lodged false FIR of snatching of his mobile phone.

The mobile phone of complainant got recovered from his car. IO objects to the release of mobile phone stating that the complainant may change the IMEI number of mobile phone or destroy the same.

Instead of releasing the articles on superdari, this Court is of the view that the articles has to be released as per directions of **Hon'ble High Court of Delhi** in matter of "**Manjit Singh Vs. State**" in Crl. M.C. No. 4485/2013 dated 10.09.2014.

Hon'ble High Court of Delhi in above-said judgment/order while relying upon the judgments of **Hon'ble Supreme Court of India** in matter of "**Sunderbhai Ambalal Desai Vs. State of Gujarat**", AIR 2003 SUPREME COURT 638, "**General Insurance Council & Ors. Vs. State of Andhra Pradesh & Ors.**" Writ Petition (C) No.14 of 2008 decided on 19.04.2010 and "**Basavva Kom Dyamangouda Patil Vs. State of Mysore**", (1977) 4 SCC 358 has held :-

"59. The valuable articles seized by the police may be released to the person, who, in the opinion of the court, is lawfully entitled to claim such as the complainant at whose house theft, robbery or dacoity has taken place, after preparing detailed panchnama of such articles, taking photographs of such articles and a security bond.

60. The photographs of such articles should be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Whenever necessary, the court may get the jewellery articles valued from a government approved valuer.

61. The actual production of the valuable articles during the trial should not be insisted upon and the photographs along with the panchnama should suffice for the purposes of evidence.

Considering the facts and circumstances and law laid down by **Hon'ble High Court of Delhi**, article in question i.e. mobile phone be released to the applicant on furnishing security bond as per valuation report of the article and after preparation of panchnama and taking photographs of article including IMEI number as per directions of **Hon'ble High of Delhi** in above cited paragraphs. IO is directed to get the valuation done of the article prior to the release the same to the applicant as per directions of **Hon'ble High Court of Delhi**. Panchnama, photographs, valuation report and security bond shall be filed along-with final report. **Complainant shall admit the IMEI number of mobile phone. Complainant is also directed not to destroy/sell his mobile phone till the trial of the case.**

Application stands disposed off accordingly. One copy of order be uploaded on Delhi District Court website. Copy of order be also sent to the e-mail of applicant and SHO PS Civil Lines. The printout of the application, reply and the order be kept for records and be tagged with the final report.

(MANOJ KUMAR)

MM-06/THC/Central/20.06.2020

20.06.2020

Through Video conferencing at 12:45 pm.

Present : Sh. Rajesh K. Sharma, Ld. Counsel for complainant joined through Cisco Webex.

Arguments on application U/s 156(3) Cr. P.C. has already been heard.

The case of the complainant in nutshell is that on 12.05.2019, at about 04:00 pm, when complainant was sitting at the door of his resident, then accused persons attacked him with hockey sticks, rod and *lathi*. Complainant was severally beaten by the accused persons. Thereafter, accused persons threatened him of dire consequences and fled away from the spot. MLC of complainant bearing no.2225/19 dated 12.05.2019 also got conducted. Complainant alleged that he suffered injuries on his right elbow. The complainant filed complaint in this regard to the concerned PS and to higher police authorities, however, no action has been taken.

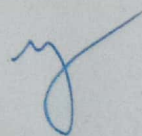
In this matter, ATR was called from the concerned PS as per judgment of *Hon'ble High Court of Delhi* in matter of "*Subhakaran Luharuka & Anr. Vs. State (Government of NCT of Delhi) & Anr.*", 170 (2010) which is on record.

Submission heard. Perused.

Perusal of the complaint, status report of the IO, MLC and photographs of the complainant shows that he received injuries in pursuance to the alleged incident dated 12.05.2019. However, injuries are simple in nature as mentioned in the MLC. Non cognizable report under Section 155 Cr. P.C. has already been registered. Under these circumstances, it is apparent that no cognizable offence has been committed in the present case. The section 323 IPC is a non cognizable offence and the injury is simple in nature. Thus, application under Section 156(3) Cr. P.C. does not disclose commission of cognizable offence.

Thus, this is not a fit case for invoking powers U/s 156(3) Cr. P.C. and for directing the SHO of concerned police station to register FIR for the following reasons :-

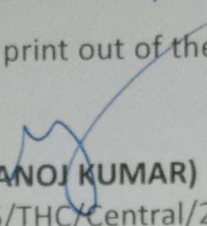
1. *The identity of the accused is already known.*
2. *All the incriminating facts are already in the knowledge of the complainant.*
3. *No facts are to be unearthed so as to require aid of police.*
4. *Non cognizable report already been registered.*



: 2 :

In view of the above-said reasons, the application of the complainant under Section 156 (3) of The Code of Criminal Procedure, 1973 is hereby dismissed.

A complaint under Section 200 Cr. P.C. is also filed along-with application. Complaint of complainant perused. I take cognizance of offence. Put up the matter for PSE on 22.10.2020. One copy of order be uploaded on CIS. A print out of the order be also tagged with the main case file.


(MANOJ KUMAR)

MM-06/THC/Central/20.06.2020

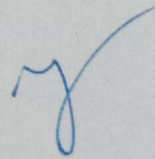
20.06.2020

Through Video conferencing at 12:15 pm.

Present : Sh. Ashu Garg, Ld. Counsel for complainant joined through Cisco Webex.
Arguments on application U/s 156(3) Cr. P.C. has already been heard.

The case of the complainant in nutshell is that grandfather and father of the complainant was working for Hardyal Singh who is the father of alleged accused. The complainant at the instance of his grandfather started working with the father of alleged in the year 1996. The complainant apart from doing the official/business work of alleged, also used to do the household work. Thereafter, seeing the hard work and sincerity of complainant, the alleged asked the father of the complainant to allow the complainant to work with him. So, complainant started working with the alleged. He used to work at the shop of alleged at Derawal shopping complex. The complainant was handling the shop of alleged on his own. The proceeds/sale of shop handed over by the complainant to the alleged at his home on daily basis. After some time, the complainant used to collect money and cheques on behalf of alleged. Complainant alleged that he came to know that alleged had made the contract at Roshnara Road club in his name. The alleged Ditta Singh was forging his signature. In the year 2013, complainant started his own work of trading. At that time, he used to handle the recovery of payments and other financial matters of alleged. The alleged took bank cheques, signed blank papers and stamps of the complainant as a security as complainant was handling the payments/recovery of alleged. Thus, complainant alleged that signed blank papers were taken under force/inducement. The complainant alleged that all the payments have been handed over to the alleged, however, the alleged misused his blank cheques and filed cases under 138 N.I. Act against him. Thus, complainant alleged that alleged person cheated the complainant and forged the documents, so necessary action may be taken against accused. The complainant filed complaint in this regard to the concerned PS and to higher police authorities, however, no action has been taken. Ld. Counsel relied upon the judgment of **Hon'ble High Court of Delhi** in "*Mohd. Asraf Vs. State*" CRL.A 1306/2015.

In this matter, ATR was called from the concerned PS as per judgment of **Hon'ble High Court of Delhi** in matter of "*Subhkaran Luharuka & Anr. Vs. State (Government of NCT of Delhi) & Anr.*", 170 (2010) which is on record.



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Submission heard. Perused.

Perusal of the complaint, status report of the IO and the documents attached with the complaint shows that there is dispute between the parties regarding payments/dues. The present complaint has been filed after filing of cases under Section 138 N.I. Act against the complainant. Thus, prima-facie, it seems that present complaint is the counterblast to the cases under Section 138 N.I. Act. The complainant has not brought the entire facts and circumstances before the Court. So, it is very difficult for the Court to even prima-facie make an opinion as to the commission of offence.

The transaction between the parties is purely civil in nature. At this stage, this Court cannot comment about the genuineness or forgery of the alleged documents. The rights and liabilities of the parties qua recovery of dues/forgery of documents can conclusively be determined by the civil court. The judgment relied by Ld. Counsel for complainant does not apply to the facts and circumstances of the present case. Thus, application under Section 156(3) Cr. P.C. does not disclose commission of cognizable offence.

Thus, this is not a fit case for invoking powers U/s 156(3) Cr. P.C. and for directing the SHO of concerned police station to register FIR for the following reasons :-

1. *The dispute between the parties is of civil nature.*
2. *The identity of the accused is already known.*
3. *All the incriminating facts are already in the knowledge of the complainant.*
4. *The present complaint is the counterblast to the cases under Section 138 N.I. Act.*

In view of the above-said reasons, the application under Section 156 (3) of The Code of Criminal Procedure, 1973 is hereby dismissed.

A complaint under Section 200 Cr. P.C. is also filed along-with application. Complaint of complainant perused. I take cognizance of offence. Put up the matter for PSE on 22.10.2020. One copy of order be uploaded on CIS. A printout of the order be also tagged with the main case file.

(MANOJ KUMAR)

MM-06/THC/Central/20.06.2020